PANAMA CANAL COMMISSION BUDGET AUTHORIZATION, FISCAL YEAR 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON
PANAMA CANAL/OUTER CONTINENTAL SHELF

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

THE BUDGET FOR THE OPERATION AND MAINTENANCE OF THE PANAMA CANAL FOR FISCAL YEAR 1989 (H.R. 4449, SUBSEQUENTLY INTRODUCED)

MARCH 17, 1988

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PANAMA CANAL COMMISSION BUDGET AUTHORIZATION, FISCAL YEAR 1989

THURSDAY, MARCH 17, 1988

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON PANAMA CANAL/OUTER CONTINENTAL SHELF, COMMITTEE ON MERCHANT MARINE AND FISHERIES,

Washington, DC.

The subcommittee met, pursuant to notice, at 2:45 p.m., in room 1334, Longworth House Office Building, Hon. W.J. (Billy) Tauzin (chairman of the subcommittee) presiding.

Present: Representatives Tauzin and Bentley.

Staff present: Roy Willis, Roxana Chahin, Cher Brooks, Ed Welch, Dave Whaley, and Harry Burroughs.

STATEMENT OF HON. W.J. (BILLY) TAUZIN, CHAIRMAN, SUBCOMMITTEE ON PANAMA CANAL AND OUTER CONTINENTAL SHELF

Mr. TAUZIN. The hearing will please come to order.

We will obviously not do a roll call; we will simply ask that we commence the hearing for the sake of time and as members come in they will just have to catch up.

Let me first make a short statement. We convene today to hear the fiscal year 1989 budget for the operation and maintenance of the Panama Canal. Testifying today are Panama Canal Commission Chairman William Gianelli and Canal Administrator Dennis McAuliffe, and Commission Secretary Michael Rhode.

We want to thank you all for joining us.

Mr. Gianelli was just here with Mr. McAuliffe and Mr. Rhode just a couple of days ago as we were holding our hearing on conditions of the Panama Canal and to hear of the recent crisis.

Today I am sure, Mr. Gianelli, we may have some more questions regarding an update on that situation.

Members will find in their briefing packets the Panama Canal Commission's booklet "Justification of Programs and Estimates for the Fiscal Year Ending September 30, 1989." I commend it to the committee's attention and congratulate the Commission on doing a thorough job again of preparing it for us.

During the first session of the 100th Congress the Panama Canal Commission budget was changed from an appropriated fund agency to a revolving fund agency, as part of the Public Law 100-203. Our hearing today is the initial authorization under the revolving fund.

We will get a report from our witnesses on operations under that revolving fund. The Commission is charged by law to operate on a breakeven basis. Operating expenses for 1989 are projected by the

Commission to be $471.9 million, with operating revenues projected to be $472.5 million, including a proposed $19.6 million toll increase.

Members have already expressed some concern about this proposal. Of course, we are interested in the timing of the toll increase and look forward to hearing from the Commission on this and other matters of the authorization request.

Additionally, even though it is not part of the general subject scheduled for this hearing, we will, of course, ask for a report on the payments to Panama following the President's announcement that he was directing the escrowing of those payments with the exception of the public services monthly contributions.

At this time we will leave the record open for statements by, first of all, the Honorable Jack Fields, the ranking minority member, who has submitted a written statement for the record. Mr. Jones, the full committee chairman has also submitted a statement for the record. And then any of the other members who wish to do so will have at least five legislative days to submit statements for the record.

[The prepared statements of Mr. Jones and Mr. Fields follow:]

THE HONORABLE WALTER B. JONES, CHAIRMAN
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES
STATEMENT AT SUBCOMMITTEE ON PANAMA CANAL/OCS HEARING
ON THE FISCAL YEAR 1989 BUDGET

MARCH 17, 1988

THIS IS THE FIRST YEAR OUR COMMITTEE WILL BE AUTHORIZING A BUDGET FOR THE PANAMA CANAL COMMISSION'S NEW REVOLVING FUND ACCOUNT.

OUR AGREEMENT WITH THE COMMISSION WAS THAT WE WOULD BE WILLING TO TAKE THE BUDGET OUT FROM UNDER THE APPROPRIATIONS COMMITTEE IF AN AUTHORIZATION OF THE BUDGET CONTINUED TO BE REQUIRED BY LAW. ALTHOUGH I WOULD HAVE PREFERRED AN ANNUAL AUTHORIZATION REQUIREMENT, I COMPROMISED WITH THE COMMISSION FOR AN AUTHORIZATION REQUIREMENT OF EVERY 2 YEARS. I CONTINUE TO PREFER, HOWEVER, AN ANNUAL AUTHORIZATION FOR OVERSIGHT PURPOSES, AND FOR THE PURPOSE OF USING THE AUTHORIZATION BILL AS A VEHICLE FOR OTHER NEEDED LEGISLATION AFFECTING THE PANAMA CANAL. BESIDES, WE LIKE TO SEE YOU EVERY YEAR, MR. GIANELLI AND MR. MCAULIFFE.

I UNDERSTAND YOUR DAY WENT WELL YESTERDAY AT THE APPROPRIATIONS HEARING, AND I AM SURE YOU WILL BE PLEASED TODAY ALSO AT CHAIRMAN TAUZIN'S HEARING.

MY COMPLIMENTS TO YOU MR. MCAULIFFE AND CHAIRMAN GIANELLI ON YOUR EXCELLENT OPERATION OF THE CANAL DURING THIS DREADFUL

POLITICAL CRISIS IN PANAMA. I ALSO WANT TO THANK MIKE RHODE FOR KEEPING US DAILY INFORMED ABOUT THE CURRENT SITUATION, AND WE WILL DO ALL WE CAN HERE TO ASSIST YOU DURING THESE TENSE DAYS IN PANAMA.

Statement by the Honorable Jack Fields (R.-Tex.) Before the Subcommittee on Panama Canal/OCS Hearing on the Panama Canal Commission Authorization Request for FY '89: March 17, 1988

Mr. Chairman, I would like to join with you in welcoming back to our Subcommittee the Chairman, Administrator, and Secretary of the Panama Canal Commission (PCC).

In many ways, this is an historic hearing, not only because of the growing internal problems within Panama but also because we will be considering for the first time

full year funding for the PCC's new revolving fund system.

While I am sure the Commission is still adjusting to this fundamental change, I believe the revolving fund system has been a tremendous success.

Not only has it allowed the Commission to simplify its financial structure, to respond more quickly to changing business conditions, and to avoid the agonizing budget process, but it also will prevent the payment of millions of dollars to the illegal and illegitimate government of General Manuel Noriega.

If the Congress had not included this change in last year's Reconciliation bill, then the Commission would now

be facing at least a $20 million profit payment to Panama.

There is no question about that fact. The FY '88 appropriation level for the Panama Canal Commission guaranteed a profit payment to Panama and, I repeat, it would have occurred had we not enacted a revolving fund system.

And, despite the experiences of past years, the Budget Summit made it clear that the PCC would not be successful in its efforts to receive any supplemental appropriation funds.

Mr. Chairman, it is inconceivable to me that at a time when our government is doing everything it can to

encourage democracy in Panama, that the Panama Canal Commission -- a U.S. Government agency -- would be in a position to provide General Noriega with some $20 million dollars. Yet, that is exactly what would have happened. And, I, for one, am proud that this Committee had the foresight and leadership to prevent that from occurring.

In addition, I am extremely pleased that we have finally solved the Panama Canal interest issue. With the enactment of the revolving fund, the Commission not only transferred the $61.7 million to the General Fund of the U.S. Treasury but it also restored our investment base in the Canal to a proper level. As a result, the taxpayers of this nation will receive an additional $6.1 million in FY '89.

Finally, Mr. Chairman, I would like to address one additional concern. While it is true that this year's PCC budget anticipates a modest toll increase in January, 1989, we must keep this increase in perspective.

If enacted, it will only be the second increase since 1979 and it would have occurred with or without the change to a revolving fund system. In fact, it is likely that the increase would have been higher without the change to a revolving fund system.

And, despite reports to the contrary, the Commission cannot simply increase or decrease tolls at a whim, but, in fact, must publish such a request, conduct public hearings, and obtain the approval of both the PCC Board of

Directors and the President of the United States. These required steps and procedures are mandated by P.L. 96-70.

Mr. Chairman, this process could require almost a year of consideration and, even if it could, it would be counterproductive for the Commission to alter its toll base on a weekly or even monthly basis. Those shippers who use the Panama Canal must have predictability in both cost and service.

I look forward to hearing from our distinguished witnesses and again compliment them for doing such an extraordinary and superb job of operating the Canal under most difficult conditions.

Thank you, Mr. Chairman.

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Mr. TAUZIN. At this time we will recognize Mr. Bill Gianelli for his statement, and those of Mr. Rhode and Mr. McAuliffe.

STATEMENT OF WILLIAM R. GIANELLI, CHAIRMAN, PANAMA CANAL COMMISSION, WASHINGTON, DC

INTRODUCTION

Mr. GIANELLI. Thank you very much, Mr. Chairman.

Mr. Chairman, and members of the subcommittee, I am William Gianelli, the Secretary of Defense Representative for Panama Canal Affairs, and I am also Chairman of the Board of the Panama Canal Commission.

With your permission, Mr. Chairman, I would like to summarize my written statement, and I would hope that you would allow Mr. McAuliffe to present his statement after mine. Then we will both be available to answer whatever questions the committee may have for us after that.

Mr. TAUZIN. That is very acceptable.

Mr. GIANELLI. Thank you very much.

REVOLVING FUND CONVERSION

First of all, let me talk a little bit about the revolving fund conversion. Undoubtedly, this legislation, which converted the Commission from an appropriated fund agency to a revolving fund agency, ranks as one of the most important changes that the Commission has experienced since the entry into force of the treaty on October 1, 1979. We recognize the pressures that will continue to be placed on the U.S. Government budget in the future, and we are most appreciative that the Members of Congress recognized the incongruities of maintaining the Commission as an appropriated fund agency

REVOLVING FUND STRUCTURE

Having said that, I would like to assure you and the members of this committee that as a revolving fund, the basic concepts under which the Panama Canal operates will remain unchanged. Those are as follows:

First of all, the U.S. Government maintains full responsibility for the operation and maintenance of the Canal until December 31, 1999;

Second, the requirement continues that the Canal operate on a self-sustaining basis at no cost to the U.S. taxpayer;

Third, the Commission's programs and activities continue to be subject to the congressional budget review process; and

Fourth, the Commission will continue to be subject to U.S. Government fiscal and accounting procedures.

SIGNIFICANT ACTION

Moving on to significant actions required, I am pleased to report on two specific actions that took place in January 1988. The first was the transfer of $85 million from the Panama Canal Commission Fund to the General Fund of the U.S. Treasury, which represents the unreimbursed balance of the appropriation for fiscal year

1980 and which came from the General Fund of the U.S. Treasury, and of $65 million associated with interest on the investment of the United States in the Canal collected from October 1, 1979, through December 31, 1985.

The second major action concerns the restoration of the aforementioned interest collections to the investment base, with a resultant increase of approximately $6.1 million annually of interest being paid to the U.S. Treasury. I am sure you are as pleased as I am that these items will no longer be matters of contention.

BUDGET PROGRAMS

Mr. Chairman, Mr. McAuliffe will address in more detail the budget programs and activities that are planned in fiscal year 1989. However, I want to affirm that the programs for that year are essential and are in accord with the program of the President. These programs and activities will enable us to continue to fulfill our mission to operate the Panama Canal in a safe and efficient manner at no cost to the U.S. taxpayer.

I forwarded to the Congress on February 19 of this year a draft legislative proposal which authorizes Canal operations and capital expenditures for both fiscal years 1989 and 1990. On behalf of the Administration, we ask for this subcommittee's support of this proposal.

TOLL RATE INCREASE

Moving on to another subject which I know is of interest to this subcommittee and to you, Mr. Chairman—that is, the anticipated requirement for a toll rate increase. We do project a need for a toll rate increase sometime during fiscal year 1989. This adjustment is predicated on the continued increase in costs due to inflation in the face of only marginal gain or no growth at all in Canal traffic and tolls. While the Canal has been able to absorb the effects of inflation since its last toll increase in March of 1983, the point will be reached shortly where these rising costs cannot be absorbed by traffic growth and cost constraints. I want to assure this subcommittee, however, that actual implementation of a toll increase will occur only if forecasted conditions continue.

Over the next few months, the Commission will be monitoring very closely the revenues and expenses of the Canal in order to make a more precise determination as to the timing and amount of any toll rate increase. We are well aware of the need to keep the Canal competitive with other transportation alternatives in terms of providing efficient service at the lowest possible cost. I certainly want to assure this subcommittee that the Commission approaches any change in rates with extreme caution. It should be noted that if a toll rate increase is implemented, it will be the first in six years and will be less than the 9.8 percent increase that we had in 1983. We detected no strong opposition to the increase from the shipping industry when the Commission issued an announcement on this subject last summer. Certainly, Mr. Chairman, we will keep the committee apprised of further developments concerning a possible toll increase and will look forward to your input to us.

FISCAL ACCOMPLISHMENTS

As we begin a new chapter of Canal history, operating as a revolving fund, I would like to emphasize the fiscal success the Commission has achieved over the last eight years.

The records show that the Commission has conducted a break-even operation over that period, generating revenues and expenses of more than $3 billion each, while financing more than $200 million of needed capital investment in the Canal and at the same time showing only a cumulative nominal profit of some $8 million. The Commission has accomplished this without the use of any U.S. taxpayer money and has successfully met its obligation to cover all Canal costs with revenues earned. This subcommittee can be confident that the revolving fund enhances the Commission's prospects for continued fiscal success.

LOYAL SERVICE OF EMPLOYEES

Moving on to an item which I feel very strongly about and I would like to put on the record of your subcommittee, Mr. Chairman, and that is the loyal service by our Canal employees. I particularly want to go on record with a commendation of the employees of Panama Canal Commission. Despite the very unsettling political conditions that have existed in Panama in recent months, our employees have, through their wholehearted commitments, contributed to the uninterrupted operation of the Canal enterprise. And I might say, Mr. Chairman, that continues today. This loyalty is most admirable and should not go unrecognized. I believe this is a good indication of the prospects for the continued orderly operation of the Canal.

CONCLUSION

Mr. Chairman, this concludes my prepared remarks.

I would like to address the document which we have just presented to you and the subcommittee staff. It is in response to a comment you made during your introduction regarding, the impact of placing Panama Canal Commission payments to Panama in escrow. You referred to this as an action which was taken by the President last week.

What we have done is to set forth in this table all of the payments which we make to the Government of Panama, giving you the basis for that payment, to whom the payment is made, the frequency of the payment, when the next payment is due to be paid, the amount of the payment, and in the last column, the possible impact on the Commission. We think this will put the information in one document which I think has been discussed before and, hopefully, it will provide information which will be usable to your subcommittee and others as examine this particular part of the problem.

That completes my presentation, Mr. Chairman. If there are any questions, we would be pleased to respond to them after Mr. McAuliffe has made his presentation. Thank you very much.

[The prepared statement of Mr. Gianelli may be found at the end of the hearing.]

Mr. TAUZIN. Thank you, Mr. Gianelli.

Mr. McAuliffe?

STATEMENT OF DENNIS P. McAULIFFE, ADMINISTRATOR, PANAMA CANAL COMMISSION, WASHINGTON, DC

Mr. McAULIFFE. Thank you, Mr. Chairman.
Mr. TAUZIN. Or should we call you "General"?
Mr. McAULIFFE. It is the chairman's choice.

INTRODUCTION

Mr. Chairman, members of the subcommittee, I am Dennis Philip McAuliffe, Administrator of the Panama Canal Commission. I join with Mr. Gianelli in expressing on behalf of the Panama Canal Commission our appreciation for the continued assistance received from this subcommittee and its members.

I propose to enter my full statement into the record and to summarize it at this time.

REVOLVING FUND CONVERSION

A major and important milestone was reached this past December when the Congress enacted legislation to convert the Commission to a revolving fund agency. The new arrangement will promote the continued efficient operation of the waterway. While the change to a revolving fund recognizes the business-type character of the Commission, it does not end nor dilute congressional oversight and control over the operation of the Panama Canal.

1987 FINANCIAL RESULTS

I am pleased to report that in spite of the unanticipated cost burden imposed by the Gaillard Cut landslide early in the fiscal year, the Commission recorded a near breakeven operation in 1987, recording a minimal $600,000 loss. This loss will be carried forward for recovery in future periods as provided for by the Panama Canal Act.

FISCAL YEAR 1989 OPERATIONS

Expenses for the Commission in 1989 are estimated at $471.9 million, and operating revenues are estimated to be $472.5 million. With respect to Administrative Expenses, the revolving-fund legislation limits such expenses to the amount provided annually in appropriation acts. As provided in the President's budget for fiscal year 1989, the Commission projects a requirement of $50.3 million for this category of expense. I would like to address in more detail the functions that are included in this category:

First, Executive Direction, $11.5 million. This provides for the management, planning, direction, and control of overall Commission activities, such as the Office of the Administrator, other administrative services, and also the cost of the Secretary's office in Washington, DC.

The second category is Operations Direction, $2.3 million. This provides for the bureau-level direction and coordination of the Commission's three operating bureaus which are directly responsible for the transit and support functions of the Commission.

Third, Financial Management, $13.8 million. This function is responsible for the development of financial accounting and rate-making policies, the establishment of systems of internal control, and processing of the Commission's biweekly payroll.

Fourth, Personnel Administration, $4.2 million. This function has the agency-wide responsibility for personnel administration and management, and the joint personnel program that provides staffing services for participating Federal agencies in the Panama Canal area.

The fifth and last category, is Employment Costs, $18.5 million. This category of expense covers certain employment costs of the Commission which are general in nature and not identified with other specific activities. Included are provisions for reimbursement to the Department of Defense for education and hospital services, the Commission's share of premium costs for employees' health benefits insurance, employees' home leave travel and repatriation costs.

I believe it is important to point out that the largest portion of the Administrative Expense category is comprised of personnel costs for permanent employees already on the rolls and for certain functions which provide service to the entire Commission, such as the payroll department and the central computer facility, among others, which are more operational in nature than administrative. In addition, there are certain employment costs which are statutorily required, such as the employer's contribution for Government-sponsored health and life insurance over which the Commission has no control.

As a final comment on the Administrative Expenses which I have described, it should be noted that these costs represent only ten percent of our annual budget, an overhead level which I believe demonstrates the effectiveness of management in holding such costs to a minimum. Setting a limitation below the level requested in the budget, while providing no additional monies to the United States Treasury and producing no significant savings to overall Canal operations, would disproportionately impact on the ability of the Commission to carry out its management functions.

CAPITAL PROGRAM

We are projecting a requirement for $39.5 million for the capital program. As in past years, the major portion of the program is devoted to essential transit facilities and equipment.

CONCLUSION

Before concluding my remarks on the 1989 budget, I would like to point out that the sluggish performance in traffic and tolls projected for that year is expected to be shortlived; and by 1990, Canal business should resume a moderate growth pattern which we forecast to continue until at least 1992.

Finally, I am pleased to report that the political disturbances that are occurring in Panama have not affected the operations of the Canal. This is primarily due to the dedication and professionalism of our employees, many of whom reside in or around Panama City, and who on many occasions have had to take extraordinary

measures to travel to work. I join Mr. Gianelli in commending the Commission work force for its outstanding performance.

Mr. Chairman, that concludes my remarks. I shall be pleased to join Mr. Gianelli in answering any questions that you or other members of the subcommittee may have.

[The prepared statement of Mr. McAuliffe may be found at the end of the hearing.]

Mr. TAUZIN. Thank you, Mr. McAuliffe.

Gentlemen, in reference to the current state of unrest in Panama, has the PDF reaction to the coup attempt of yesterday in any way limited the movement of Canal personnel or dependents in the Canal Zone?

Mr. MCAULIFFE. There have been some barriers erected in and around our facilities in the Balboa area on the Pacific side of the Canal. These barriers actually were installed by striking employees of the port. These employees are angry because they have not been paid by the Government of Panama, as they were supposed to on Monday. So, they erected forty-foot containers as barriers across many of the intersections in the Balboa area.

This has caused a whole slate of problems in moving around that area, problems that have affected vehicular travel of the Commission itself and of our employees. Many of those barriers were removed today—interestingly, with the support of the Panama Defense Forces—so that the restraints on travel are not quite as bad today as they were yesterday.

There has not been any other direct impact on our employees by the events of yesterday. As you have undoubtedly read, the U.S. military forces have put into effect a personnel movement limitation on their personnel. We have similarly advised our own personnel to restrict their movement and to move around only when it is absolutely necessary and to do so with caution.

We have had no injuries nor unfortunate incidents during this period.

Mr. GIANELLI. The ship traffic is moving normally, I might add, through the Canal.

Mr. TAUZIN. Through the Canal itself?

Mr. GIANELLI. Yes.

Mr. MCAULIFFE. Yes. The Canal operation has not been affected at all during this period of political unrest.

SECURITY IN CANAL AREA

Mr. TAUZIN. Americans living in housing provided in the Canal Area are under the security protection of the police, who are part of the PDF. It was the police chief, Colonel Macias, who apparently led the coup yesterday, and who is now in custody, I understand, by Noriega's forces.

Has that in any way affected security or the provision of security by the police for those living in housing units in the Canal Area?

Mr. MCAULIFFE. It apparently has not, Mr. Chairman. I suspect that there may have been a period immediately after the apprehension of Colonel Macias in which there may have been gaps in security, but it did not have any impact, adverse or otherwise, on our people. My reports indicate that the Panamanian patrolmen

who are assigned to our housing areas and in and around Canal facilities are performing their normal functions.

SCHOOL SITUATION

Mr. TAUZIN. Now, Americans are attending the International School in Panama, Americans who are dependents of workers and others, the Armed Forces there. Has there been any interruption of their ability to attend school at the International School? Can you give us any update on that?

Mr. GIANELLI. It is my understanding, Mr. Chairman, that that school is not in session at the present time. So, if that is the case, I suspect there wouldn't be a major problem in that regard. The school is in recess.

Mr. TAUZIN. They are in recess during this time?

Mr. GIANELLI. That's my understanding.

But in fact, Mr. Chairman, there are very few of our Commission families who participate in that particular school. Most of the U.S. citizen employees send their children to the Department of Defense schools, several of which are on the military bases. On the other hand, our Panamanian employees send their children to either the Panamanian public or private schools. I am not aware of more than a handful of families that send their children to the International School to which you refer.

Mr. TAUZIN. We received a State Department report that indicated that there were some problems that, although those who wanted to attend were attending, that many were staying home voluntarily, obviously not in connection with any break or recess in the school.

But if there is difficulty or problems in school attendance, we would appreciate hearing about that as time elapses.

SHOPPING DIFFICULTIES

The other big concern, of course, is the ability of civilian employees and their dependents being able to use the commissaries for shopping. I understand that that privilege has not yet been extended on a temporary basis or some emergency basis.

Are you taking any actions, Mr. Gianelli, on behalf of the Commission to see to it that at least if this emergency deepens, that there is provision for employees and their dependents?

Mr. GIANELLI. We are working on a number of fronts, in this regard Mr. Chairman, because as you indicated, this is a very sensitive problem for our employees.

Mr. TAUZIN. Yes.

Mr. GIANELLI. We have stockpiled a certain amount of material for use by our employees, particularly at the worksite. We are working with the State Department now to try to work out some arrangements whereby, if necessary, we can obtain quantities of food for later distribution to our own employees. Of course, we are hopeful that we can get the privilege of using the U.S. military commissary and PX facilities, but that has not yet been worked out.

Mr. TAUZIN. Again, you know of this committee's strong interest in our employees and dependents not having to risk any trips into

town during this unrest and our continued requests that they be given some temporary emergency permits.

I understand the politically sensitive nature of the request, but we are still talking about people's live and their protection. We are very concerned about it, and we would appreciate being updated as things develop on that.

Mr. GIANELLI. We certainly will, Mr. Chairman.

Mr. MCAULIFFE. Yes, sir.

PANAMA PIPELINE

Mr. TAUZIN. Our understanding also is that the Trans-Panama pipeline is now shut down—this comes from the State Department, again—and that the shutdown is due to interruptions of electrical service as a result of a group of electrical workers going on strike.

Is it your information the same? We were getting some additional information they may be back operational within several hours. Have you any latest information?

Mr. GIANELLI. Well, we are a little confused on this subject, too, Mr. Chairman. One of the pieces of information we have received is that electricity in some of the areas is being restored. Now, whether or not it's being restored to the pumping plants, we do not have that detailed information. But certainly it is hoped that power will be restored so that the pipeline can continue to function if in fact it has been disrupted.

IMPACT OF WITHHOLDING PAYMENTS

Mr. TAUZIN. On the form or report you have given us on the impact of placing the Panama Canal Commission payments in escrow, you indicate that payments for services—police and fire protection, street lighting, cleaning, traffic management, garbage collection—are actually on hold.

Mr. GIANELLI. Yes.

Mr. TAUZIN. The legislation we had proposed would have permitted those payments.

Mr. GIANELLI. Yes.

Mr. TAUZIN. Yet, those payments are shown on your report as on hold.

Is that by the executive's order?

Mr. GIANELLI. Well, let me explain what the on-hold means, and I think you will notice that it applies to some of the others, too.

Mr. TAUZIN. Yes.

Mr. GIANELLI. There is an examination being made of all these payments to see exactly what problems would be created if they are withheld. So, what we're saying is that this is a temporary measure until a final determination is made on each of those items as to whether or not they should be withheld on a more permanent basis. But that determination has not yet been made. So, what we are trying to indicate in our paper is that certain items are in limbo now pending a decision as to whether the payments will be made or continue to be withheld.

On the public services item that you referred to, which is item 3 on the table, it is our hope, and early indications are, that the withholding of this payment will be freed up to be made. I think,

as you probably recognize, Mr. Chairman, we do receive certain public services as a result of that payment, which could present certain problems for the Commission if we didn't continue to receive those services.

TOLL INCREASE

Mr. TAUZIN. Turning to the budget quickly, you have indicated the possibility of a toll increase. You base it on the projection of sluggish performance for the Canal in traffic and tolls collected for the year 1989.

Upon what basis do you suggest that there will be sluggish performance in 1989?

Mr. GIANELLI. We constantly make projections of traffic, Mr. Chairman, and I think the information we have gathered pretty well indicates that traffic will continue pretty much at the present rate. The word "sluggish" perhaps indicates that we are not optimistic regarding the traffic growth through 1989, but certainly our projections indicate that it will probably be somewhere around what we hope to experience this year.

CONSULTATIVE COMMITTEE

Mr. TAUZIN. The Consultative Committee, which is organized under the treaty to advise on tolls and employment, has not met.

Mr. GIANELLI. That's correct; it has not met.

Mr. TAUZIN. The Commission is, nevertheless, moving forward with a toll increase proposal, or at least advising us that it intends to.

Do you intend to bring this proposal to the Consultative Committee prior to moving forward with such a proposal?

Mr. GIANELLI. Well, let me comment on the Consultative Committee because I think that will provide some insight with respect to the status of that operation.

The Consultative Committee, as the Chairman may recall, is provided for under the treaty. When the Reagan Administration came into office, it appointed people to this Consultative Committee and the Government of Panama did likewise. The Government of Panama did not care for one of the members of the Consultative Committee appointed by the United States Government and, therefore, never agreed to convene the Consultative Committee.

So, in effect, we have never had a Consultative Committee at least for the last seven years in which I have been involved with the Commission. Certainly, if the committee is functioning at some point in time, we certainly will have dialogue with them.

The Commission is not required, from a procedural position, to consult with them on this matter and accordingly, we will not await deliberations by the Consultative Committee. We will go ahead with whatever actions we think are necessary in accordance with our plans to ensure that adequate funds are available to carry out our operations in order to keep the Canal operating efficiently. We will certainly keep this subcommittee informed. As you know, there are certain administrative procedures provided by law which have to be followed, and we will follow those before any tolls increase is put into effect.

RETURN OF FUNDS

Mr. TAUZIN. Well, let me finally congratulate you on the report you have provided us, particularly what I consider very pleasing statistics on the amount of money returned to the Federal Treasury pursuant to that long-debated and controversial issue of the monies and the unreimbursed balance.

Mr. GIANELLI. Yes.

Mr. TAUZIN. And the interest accounts. I am very pleased to see that resolved and pleased to see it resolved in such an amicable fashion. You have handled it very well, and this committee is very grateful to you.

I will now yield to our colleague, Ms. Bentley, for her questions.

Ms. BENTLEY. Thank you, Mr. Chairman.

Once again I want to welcome our panel of experts from the Panama Canal, Mr. Gianelli in particular.

I am just going to ask you two or three questions now and submit a group of them for the record.

Mr. GIANELLI. Yes, ma'am.

SHIPPING'S REACTION TO POLITICAL UNREST

Ms. BENTLEY. Have you heard of any impact in terms of world shipbuilding because of the current unrest in Panama? You know, when the Suez Canal had its problems some three decades ago, thirty years ago, right away there was a big shipbuilding boom because everybody was preparing to go around the foot of Africa.

Has there been any indication that shipping companies are talking about ordering vessels larger than Panamax size because they have lost confidence in the Canal after the year 2000?

Mr. GIANELLI. No, I don't think there is any indication, Mrs. Bentley, that the shipping people have lost confidence in the United States' ability to continue to operate the Panama Canal.

Now, I must hasten to add, I don't know what they project after the year 2000. But we are in constant communication with the various shipping companies, and I think they feel fairly reassured that the present political problems are not going to spill over into the Canal operation.

We get, particularly in our Washington office and also in Panama, a large number of inquiries from shipping interests inquiring about the effect of the political unrest on the operation of the Canal. In fact, we have been a little disturbed because every once in a while we hear of a rumor that has sort of been expanded upon which indicates the Canal is experiencing some difficulty as a result of those political problems. That is not the case. The Canal has been able to operate continually, efficiently, without delay, and we expect that to continue to happen. But again, in terms of after the year 2000, I think it is difficult for us to project exactly what the shipping companies may do.

Let me give you one bit of information which might be of interest. We convened the quarterly meeting of the Panama Canal Commission's Board of Directors in Long Beach, California in January, and one of the reasons for that was to demonstrate, at least from my viewpoint, to our Board member counterparts from Panama the essentiality of keeping the Canal operating in an efficient and

cost-effective manner. Because as I see it there are alternate sources of transportation arrangements that can be made for certain types of material that would be transported; for example, in containers from the U.S. West to East Coast via railroads.

I think it was a good demonstration of the type of competition the canal management has to keep in mind at all times. I think that at the present time some of the shipping companies are looking at the Long Beach operation as perhaps a fallback alternative, certainly in terms of certain container cargo that could be moved across the country in that fashion.

But getting back again to our operation, we have not had any indication of any great uneasiness from the shipping industry as a result of what we have been experiencing in Panama over the last few months.

Ms. BENTLEY. Have you been satisfied with shifting to a revolving fund system?

Mr. GIANELLI. We are certainly very enthusiastic about it. We lack a lot of experience in terms of time. This just went into effect on the first of January, as you all know, and we are gaining experience every day. But our belief is that it will give the Commission added flexibility to deal with emergencies and unexpected up surges in traffic or decreases in traffic so that we are not tied to appropriation levels but rather to revenue levels which we generate to operate the Canal.

So, we view it as a way to give the Canal more flexibility to respond in a business-like manner, to the ups and downs of shipping, and we are very encouraged that it will work out very well for the Commission. We will certainly know a lot more about it, for example, after a few more months of experience.

CHARGES AS TO BENEFICIARIES

Ms. BENTLEY. Do you ever hear any charges that the revolving fund benefits only the bureaucrats of the Panama Canal and General Noriega?

Mr. GIANELLI. Yes, ma'am, we have heard that.

Ms. BENTLEY. How do you handle it?

Mr. GIANELLI. Well, let me say that I think if you look at the Canal's track record, I think you will find that we have through the years been able to operate the Canal rather efficiently and economically. With all due regard to the reference that is made to the bureaucrats, again, I like to think of them as dedicated Panama Canal Commission employees who work very hard in keeping the Canal operating efficiently and in keeping the costs of operating it to the minimum.

I just do not believe that a change in the funding structure will result in a change in the manner in which the Canal is operated. The Canal has the added incentive of making certain that it keeps competitive with other forms of transportation, and so I think that aspect alone is going to have a great influence on the need to keep the Canal operating efficiently and on a cost-effective basis.

On the last point, on the revolving-fund structure benefiting Mr. Noriega, I have no comment on that except to say this, Mrs. Bentley: We are required under the treaty to make certain payments to

the Government of Panama. The bill that was introduced by this subcommittee or by your Chairman and the actions that were taken by the President are intended certainly to keep the money that we are obligated to pay Panama from going to the wrong people.

I think the fact that we are going to place them in escrow indicates that it is the United States' desire that when they are ultimately released, that they be released to a responsible Government in Panama where they can be used for the legitimate purposes of the Government of Panama.

So, we think what has been happening in these last few days really he refutes any allegations that the revolving fund benefits Mr. Noriega.

PANAMANIANS ATTENDING SCHOOLS IN THE UNITED STATES

Ms. BENTLEY. On the Panamanian students who are attending military schools in the United States, have they been called home to Panama, like from Kings Point?

Mr. GIANELLI. Perhaps we could break this down into two categories. First of all, the students that are going to Kings Point I do not believe have been called back. On the other hand there were certain Panamanian students, as I understand it, who were going to certain military schools in the United States and I understand they have been recalled. These are by and large military students.

Ms. BENTLEY. Thank you. Very good.

Mr. Chairman, I would like to submit the balance of these questions for the record.

Mr. TAUZIN. Thank you, Ms. Bentley.

HUSTED ACCIDENT CASE

Mr. Gianelli, what is the status of the Robin Husted case?

Mr. GIANELLI. Mr. McAuliffe and I were, I think, talking about that earlier. Perhaps he could respond in a little more detail than I could.

Mr. TAUZIN. We continue to hear from members who are interested in it, and I want to get something on the record on it.

Mr. MCAULIFFE. We are pursuing that case with the Husted family. The Commission has requested and is awaiting receipt of medical records pertaining to Mrs. Husted's hospitalization in Paitilla Hospital in Panama City and the Gorgas Army Hospital. The U.S. Army has forwarded our request to its records center in the United States where the inpatient files were sent. Examination of these medical records is a normal and important part of a settlement process which must be completed before the agency can proceed with negotiation and adjustment of this claim. Whether a settlement will be reached in the coming months remains to be seen, but we are proceeding with all deliberate speed in the handling of the matter.

Mr. TAUZIN. Well, again, if you can keep the committee apprised of progress in the case, simply to inform members who were in Panama and had some personal interest in seeing to it that the process is continuing.

Mr. GIANELLI. Yes, we understand many of the members were concerned about this case, Mr. Chairman.

CANAL CAPACITY

Mr. TAUZIN. Yes.

Is the Canal able to accommodate 42 ships a day, which I understand is the number that would be required if the pipeline should remain closed?

Mr. MCAULIFFE. The Canal is able to accommodate 42 ships a day, and that would include approximately 16 restricted vessels; that is to say, large-beam ships requiring one-way passage through Gaillard Cut.

In order to do this, while still holding Canal waters time to reasonable levels, we would have to add crews at the locks for relay purposes and we would possibly have to provide additional tug crews. There would, in effect, be additional overtime payments required. But to put it all together, we would look forward to the challenge of handling that level of traffic and we could accommodate it.

WITHHOLDING PAYMENTS

Mr. TAUZIN. Interesting.

In regard to the payments now on hold, and particularly in light of the fact that if they are not made, you indicate the impact could be withdrawal of vital services to the Canal area, are you under instructions to hold those payments by instruction of the State Department, or is that a decision of the Commission?

Mr. GIANELLI. No, it is not a decision of the Commission. It is a combined decision of the State Department and others who have been working on this problem.

AGENCIES INSTRUCTIONS

Mr. TAUZIN. Are you aware of the fact that other taxpayers in Panama are receiving dual sets of instructions: one from the Government installed by General Noriega, and other instructions from President Delvalle or Ambassador Sosa?

Mr. GIANELLI. I don't believe we are aware of any specific instructions.

Mr. TAUZIN. Have you received any instructions or requests personally from either one of those two parties?

Mr. GIANELLI. No, we have not.

PAYMENTS TO FROZEN ACCOUNTS

Mr. TAUZIN. It has been suggested that a possible way of dealing with such things as the payment of those monies for services and income tax deductions and educational tax deductions would be to direct those payments to those banks which are holding Panamanian funds but in frozen accounts, as those funds will not, obviously, go to Noriega but nevertheless would constitute payment in the sense that it would be difficult to order withdrawal of services once those payments are made.

Has any discussion been had on that type of an idea?

Mr. GIANELLI. Well, we are working with the U.S. Treasury with respect to exactly where to place these various funds. You will notice that the tonnage payment is in the process of being placed in escrow in accordance with instructions that we are receiving from the U.S. Treasury.

Mr. TAUZIN. That's right.

Mr. GIANELLI. We are trying to coordinate those matters with them. On your specific request, I don't believe that kind of detail has been discussed specifically.

Mr. TAUZIN. Well, it is a suggestion that may be worth some discussion, since we are equally concerned that those services not be withdrawn in the Canal area, and at the same time concerned that monies not unnecessarily go to Noriega.

Mr. GIANELLI. Yes.

Mr. TAUZIN. It may be a legal way of accomplishing payment without actually seeing the money end up to Noriega's benefit.

Mr. GIANELLI. We will certainly check into that, Mr. Chairman.

IMPACT ON CANAL OPERATIONS

Mr. TAUZIN. This committee has discussed with the State Department, and I personally urged them to encourage the President to invoke his emergency economic powers in regard to monies now held in those accounts frozen. If the President did invoke those emergency authorities, what is your analysis of its impact upon the Canal area operations?

Mr. GIANELLI. Well, Mr. Chairman, I am not intimately familiar with all of those details. But let me say that I think there is a restraining order on many of those banks from disbursing those funds. The Administration is following very closely those restraining orders to see whether anything in addition might be needed, because that certainly is one way to control whatever funds may be in those banks.

Mr. TAUZIN. Well, let me state it differently. Our concern is that the restraining orders might get reversed.

Mr. GIANELLI. Yes.

Mr. TAUZIN. That some higher court may rule, in fact, that because Panamanian citizens' funds are being frozen as well as Government funds.

Mr. GIANELLI. Yes.

Mr. TAUZIN. And the orders may somehow be reversed. If that should occur, then monies now going from the pipeline operations and other monies deposited to the account of the Government of Panama might suddenly be available to Noriega. The imposition of emergency economic powers would prevent that, as I understand it.

My question is: If the President used those powers, are you aware of any other impacts upon the Canal operations that might result from the imposition of those powers?

Mr. GIANELLI. Well, I think it would depend, in part, upon which funds you were talking about, Mr. Chairman. For example, if it is the tonnage payment and the annuity payment, we would expect that those payments would continue to be withheld whether it's by a restraining order or what.

Mr. TAUZIN. That's right.

Mr. GIANELLI. So, those two would have very little impact.

Withholding the public services payment, however, could very well present a problem. It is being looked at in some depth at the present time; however, it is apparent to me that the withdrawal of those services by Panama could have a great impact on the quality of life of our U.S. employees and thus impact on Canal operations. The withdrawal of police protection, for example, would be an open invitation for thieves and vandals to enter Commission housing areas.

Mr. TAUZIN. Well, let me just leave the record open. Perhaps you can come back with some information on that question.

Mr. GIANELLI. Right.

Mr. TAUZIN. Before this member or any action is requested firmly by the committee in that area, we would like to know whether or not there are any implications of disruption of Canal operations before we make that kind of a formal request. Perhaps you can examine that with your lawyers to give us some idea.

Mr. GIANELLI. Yes. We will be pleased to do that, Mr. Chairman.

Mr. TAUZIN. I would very much appreciate it.

[Information to be supplied follows:]

EFFECTS OF WITHHOLDING PUBLIC SERVICES PAYMENT

Withdrawal of these services would have varying impacts on the Panama Canal Commission, especially in the area of police protection. The Treaty specifically prohibits the Commission from performing police activities, and agency guards may not be used to protect housing areas. Withdrawal of Panamanian police protection would amount to an open invitation to thieves and vandals to enter Canal operating and housing areas. The present Panamanian Defense Force leadership might even encourage such actions. If this were to occur, Commission employees and their families could potentially be in a state of panic. Under such circumstances, many employees would opt to stay away from work to protect their families and property and, in turn, Canal operations would become disrupted. U.S. military forces then might have to assume the police protection responsibility when it became clear that U.S. lives and property were in immediate jeopardy.

Mr. TAUZIN. Let me again thank you.

We are going to take under advisement the statements and reports you have given us and at some other later date undertake the markup of an authorization bill.

Let me restate again what I have heard from many members of the subcommittee. That is that in regard to the issue of increasing tolls in the Canal, this committee would be extremely interested in receiving much more detailed information on why you believe at this time an imposition of higher tolls may be necessary, and particularly why sluggish performance is predicted for 1989 and why operating costs are rising to the operations of the Canal.

We are also interested in knowing a little bit about when repair work will be back on track. I understand you had testified at our last hearing that some repair work had been delayed because of the increased activities in the Canal. When is that back on track, and what impact that has for the expenditure funds in this current fiscal cycle.

Perhaps you can submit that.

Mr. GIANELLI. We will be pleased to do that.

Mr. TAUZIN. That's fine.

[Information to be supplied follows:]

Tolls Increase

The major reason why the fiscal year 1989 budget estimates reflect the need for a modest toll-rate increase is that the Commission anticipates a substantial deficit in that year. The provision of the Panama Canal Act of 1979 that the Canal operate on a self-sustaining basis imposes on the Commission the obligation to seek an appropriate adjustment in the toll rates charged ships using the Panama Canal significantly exceed its anticipated revenues from providing that service.

While the Canal has been able to absorb the effects of inflation since its last toll increase in March of 1983, the point will be reached shortly where these rising costs cannot be absorbed by traffic growth and cost constraints alone. Nevertheless, the Commission is well aware of the need to keep the Canal competitive with other transportation alternatives in terms of providing efficient service at the lowest possible cost. It is for this reason that the Canal approaches any toll-rate increase with great caution. Accordingly, over the next few months, the Commission will be monitoring very closely the revenues and expenses of the Canal in order to make a more precise determination as to the timing and the amount of any toll-rate increase.

TRAFFIC OUTLOOK

The sluggish or no-growth forecast for fiscal year 1989 is primarily associated with the continued restructuring of the Japanese automobile trade, which is expected to provide a dramatic falloff of automobile shipments through the Canal through the end of 1990. The decline in this key trade, which contributed over $65 million in tolls revenues for fiscal year 1987, is projected to begin in the current fiscal year. While some growth is anticipated in the movement of other commodities, that growth in expected to be barely sufficient to offset the expected loss in the automobile trade.

OPERATING EXPENSE

On the other hand, the Commission's operating programs are not by any means free from the effects of inflation. Other factors, in addition to inflation, contributing to the Commission's anticipated higher operating costs, include an increase in interest costs which is due to an increase in the Commission's interest-bearing investment of $62 million as a result of an equivalent dollar amount which was deposited recently into the U.S. Treasury; increase performance-of-duty injury claim costs (as a result of changing the accounting policy for these costs from a cash basis to an accrual basis to assure the taxpayer does not inherit the costs of injury payments that will continue beyond 1999); and the purchase of catastrophe insurance. The combined effects of these cost factors underscore the reason for the Commission concluding that it will soon reach the point where traffic growth and cost constraints alone will not be suffiicient to assure the Commission will continue to operate on a break-even basis.

It is important to point out that the Canal agency has historically had a very conservative approach with respect to increasing its cost of using the Canal. For example, over the last 74 years, the Canal agency has only implemented four toll-rate adjustments and one admeasurement change which increased revenue, with the first such rate adjustment made in July 1974. During the first nine years of the Commission's existence, there have been only two rate adjustments. The first one, for some 29 percent on October 1, 1979, was necessary to cover, primarily, the substantially increased annuity payments to Panama required under the present Treaty. The second one, for a modest 9.8 percent in March 1983, was required due to the effects that the hyperinflation of the early 1980's had on Commission costs.

CANAL MAINTENANCE BACK ON TRACK

The Gramm-Rudman sequestration actions, which severely reduced the Commission's appropriations for most of fiscal year 1986, and the major landslide in the Canal, which added significant unbudgeted costs in fiscal year 1987, required the Commission in two consecutive years to internally reallocate the funds appropriated by the U.S. Congress in order to meet these two contingencies. Both the Gramm-Rudman action and the landslide incident forced the Commission to temporarily defer important maintenance on Canal facilities and equipment and curtail other essential programs.

Every effort has been made to accelerate the maintenance efforts on projects that were deferred as a result of the above two funding constraints. Supplemental financing assisted the Commission in these efforts, as did cost savings achieved in certain other programs and reprogramming actions which resulted in funds being diverted

to accomplish this essential work. The Commission continues to take some remedial action to accomplish deferred maintenance in fiscal year 1988, but this is not expected to have any significant impact on current funding requirements.

The Commission places great importance on the maintenance of its operating facilities and equipment, as it is recognized that deferral of maintenance on programs or projects for the 74-year-old Panama Canal would have serious consequences. Accordingly, every effort is made to accomplish essential maintenance which will contribute to ensuring that the Canal remains a safe, efficient, and viable transportation artery available to world shipping into the future.

Mr. GIANELLI. We will be pleased to respond to any other questions the committee may have.

Mr. TAUZIN. All right.

Again, let me thank you. This committee is particularly appreciative of the fact that you are operating under very trying times and that at every report we get from you, with the single exception of the period of time when the coup attempt was on, have been solid: the Canal is operating efficiently and with the independence and neutrality that the treaty required of it.

I too want to join in the congratulations that you have extended publicly to the employees, both American and Panamanian, who are loyal to that charge of operating the Canal efficiently and independently. We are very pleased that that continues to be the status.

All the rumors to the contrary—and we continue with you to keep putting those rumors down—the Canal is operating, it is operating well, it is actually operating at increased rates at the current time, and that the employees of the Canal, both American and Panamanian, are not only loyally performing their duties but performing it under very trying circumstances. And they deserve our commendation as they have already received yours.

Keep up your good work, and we appreciate your testimony today as we always do.

Mr. GIANELLI. Thank you, Mr. Chairman.

Mr. TAUZIN. With that, the meeting is adjourned.

[Whereupon, at 3:35 p.m., the subcommittee was adjourned.]

[The following was received for the record:]

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100TH CONGRESS
2D SESSION

H. R. 4449

To authorize expenditures for fiscal year 1989 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1988

Mr. TAUZIN (for himself and Mr. FIELDS) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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A BILL

To authorize expenditures for fiscal year 1989 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Year 1989".

SEC. 2. OPERATING EXPENSES.

The Panama Canal Commission (hereafter in this Act referred to as the "Commission") is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law,

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for the fiscal year beginning October 1, 1988, not to exceed $496,536,000, for the necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (Public Law 96–70; 22 U.S.C. 3601 et seq.), except that—

(1) not more than $48,000 may be used for official reception and representation expenses, of which—

(A) not more than $10,000 may be used for such expenses of the Supervisory Board of the Commission,

(B) not more than $5,000 may be used for such expenses of the Secretary of the Commission, and

(C) not more than $33,000 may be used for such expenses of the Administrator of the Commission;

(2) no funds may be expended to implement an increase in rates of tolls for use of the Panama Canal during fiscal year 1989; and

(3) funds available to the Commission for obligations shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama, which may be purchased without regard to price limitations set forth in applicable

regulations of any department or agency of the United States or by other law.

SEC. 3. CAPITAL OUTLAY.

Of any expenditures authorized by section 2, not more than $40,290,000 (which is authorized to remain available until expended) may be used for the acquisition, construction, replacement, and improvements of facilities, structures, and equipment required by the Commission.

SEC. 4. NOTIFICATION REQUIREMENTS.

The Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal that may be necessary after the end of fiscal year 1989;

(2) any payment estimated to be due Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) the initiation of any capital acquisition or construction project exceeding $10,000,000, which is not specified in the budget estimates submitted to the Congress for the fiscal year in which the project will occur.

SEC. 5. GENERAL PROVISIONS.

(a) PAY INCREASES.—Funds for the Commission may be apportioned notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation of other employees of the Government in comparable positions.

(b) EXPENDITURES IN ACCORDANCE WITH PANAMA CANAL TREATIES AND IMPLEMENTING LEGISLATION.—Funds authorized in this Act for the Commission may be expended only in accordance with the Panama Canal Treaty of 1977 and related agreements, and with any law enacted by the Congress to implement such treaty and agreements.

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Board of Directors
Panama Canal Commission

May 24, 1988

The Honorable Walter B. Jones
Chairman, Committee on Merchant Marine
and Fisheries
House of Representatives
Room 1334, Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of April 22, 1988, requesting the views and recommendations of the Panama Canal Commission on H.R. 4449, a bill to authorize expenditures for fiscal year 1989 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes. I have reviewed H.R. 4449 and with two exceptions, find it to be compatible with the Administration's proposal, which has not yet been introduced in the U.S. Congress. The two major exceptions concern the establishment of dollar limitations for the operating and capital programs of the Panama Canal Commission for fiscal year 1989 and the prohibition on Commission spending to implement an increase in toll rates during fiscal year 1989 (Section 2 (2)).

As you know, the primary objectives of Congress in converting the Commission to a revolving-fund agency were to allow the Commission to respond more quickly to changing business conditions, to insulate the Canal operation from the yearly budget-cutting process, and to improve the financial operation of the Canal. The conversion to a revolving fund was also intended to establish, without doubt, Congress's mandate that the Canal be financially dependent solely on monies it receives from its customers. Further, in accord with Congressional intent, Canal rates must be set at levels sufficient to cover the costs of operating the waterway, with any built-in profit factor specifically excluded. As a result of the foregoing, the Commission's annual budgeted costs for operations and its capital programs are directly proportional to the levels of Canal income expected for the year. To arbitrarily limit the expenditure side of that equation could result in an imbalance between income and expenses, with the likely result being a profit payment to the Government of Panama. The U.S. taxpayer would receive no benefit from such an action, while on the other hand, the efficiency of the Canal would be adversely impacted upon.

Considering further the fiscal year 1989 funding limitation set forth in the subject bill, there would be provided a total of $496,536,000--$456,246,000 for operating expenses and $40,290,000 for capital outlay. These amounts include a 2 percent factor over the amounts requested which

are intended to provide the flexibility to handle any change in workload conditions. While the 2 percent contingency is helpful, it is by definition an arbitrary factor that may or may not be adequate to meet unanticipated workload requirements or to forestall a profit payment to the Republic of Panama resulting from an unanticipated revenue surge. The Commission simply needs more flexibility and therefore strongly urges the Committee to adopt the approach included in the Administration's authorization bill that would allow the Commission to make expenditures within the limits of funds and budget authority available to it. As an example, the President's Budget includes $4.5 million for a post-1999 Federal Employees' Compensation Act (FECA) accrual as an unfunded expense, i.e., receipts would be set aside for this purpose but not obligated. However, the Commission will soon be transmitting legislation to you setting up a separate fund into which to accumulate this FECA accrual. Upon enactment, the transfer of the $4.5 million, now estimated at $5.5 million, into this new account will result in the obligation of these funds which was not anticipated in the 1989 President's Budget. This is just another example of why the Commission needs the obligational flexibility proposed in the Administration's bill.

Section 2 (2) of H.R. 4449 would preclude the Commission from expending any funds to implement an increase in rates of tolls for use of the Panama Canal during fiscal year 1989. The 1989 President's Budget assumes that a toll increase would be needed sometime in fiscal year 1989. Due to continuing higher than anticipated levels of traffic, the Commission now believes that a toll increase can be delayed until fiscal year 1990. However, the lengthy administrative procedures, including development of a formal tolls proposal document, public notification, and a public hearing, etc. will certainly require the outlay of funds during fiscal year 1989 in order to have a tolls increase, if needed, effective on October 1, 1989 (fiscal year 1990). The inability to spend any funds for this purpose in fiscal year 1989 would usurp the Commission's responsibility under the law to operate the Panama Canal on a break-even basis without cost to the U.S. taxpayer and the President's authority for approval of changes in the rates of tolls for use of the Canal. The existing legislative rules governing changes in toll rates have served the U.S. Government well for nearly three quarters of a century during which the Canal has been operated safely and efficiently at no cost to the U.S. taxpayer.

It is for the above reasons that the Commission opposes passage of H.R. 4449 in its present form. On the other hand, H.R. 4449, absent annual dollar limitations and elimination of, or a change in Section 2 (2), would be acceptable to the Commission.

As required by Rule 13 of the Rules of the House of Representatives, there is enclosed an estimate of the cost which would be incurred in carrying out H.R. 4449 for the period 1989 through 1993. The Office of Management and Budget has advised that it has no objection to the presentation of this report to the Committee.

The Honorable Walter B. Jones

I appreciate the opportunity to provide my views regarding H.R. 4449, and I look forward to the continued cooperative spirit in dealing with your Committee, its members and staff.

Sincerely,

William R. Gianelli

William R. Gianelli
Chairman

Enclosure

PANAMA CANAL COMMISSION

COST ESTIMATE IN IMPLEMENTING H.R. 4449
($ In thousands)

	Fiscal Year				
	1989	1990	1991	1992	1993
Budget Authority	-0-	-0-	-0-	-0-	-0-
Outlays .....2,855 *		-7,000	-3,000	-12,000	-10,000

*This estimate assumes that obligations will be at the level proposed in the 1989 President's Budget on the basis that the 2 percent factor is just a contingency and at this time is not anticipated to be used.

United States Department of State

Washington, D.C. 20520

MAY 26 1988

Dear Mr. Chairman:

I am pleased to transmit the Department's comments on H.R. 4449, 100th Congress, 2d Session. The Department of State believes that passage of the legislation proposed in H.R. 4449, a bill to authorize expenditures for fiscal year 1989 for the Panama Canal Commission (PCC) to operate and maintain the Panama Canal, and for other purposes, would greatly modify or supersede the purpose of Public Law 100-203, which established the PCC as a revolving fund agency.

We believe that the authorization of an indefinite sum for the Panama Canal Commission, as provided in the draft authorization legislation submitted to the Congress by the Commission, is consistent with Public Law 100-203 intent of preserving legislative oversight while affording the operating flexibility of a revolving fund. Passage of H.R. 4449, on the other hand, would appear to undercut the PCC's existing authority and greatly modifies the purpose of PL 100-203 in establishing the PCC as a revolving fund agency.

The Department also questions whether the interests of the United States Government are best served by the strict prohibition contained in H.R. 4449 against expending funds to implement a tolls increase. While the Department understands the necessity of weighing carefully any plan to increase tolls, we believe that the PCC, the United States Government agency responsible for operating the canal, should not be restricted in its ability to undertake the planning required to implement a tolls increase, if such an increase is deemed necessary to ensure the efficient operation of the canal.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

With best wishes,

Sincerely,

J. Edward Fox
Assistant Secretary
Legislative Affairs

The Honorable
Walter B. Jones,
Chairman,
Committee on Merchant Marines and Fisheries,
House of Representatives.

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

14 JUN 1988

Honorable Walter B. Jones
Chairman
Merchant Marine and
Fisheries Committee
House of Representatives
Washington, D. C. 20515-6230

Dear Mr. Chairman:

This responds to your request of April 22, 1988, to the Secretary of Defense for views of the Department of Defense on H.R. 4449, 100th Congress, Second Session, a bill to authorize expenditures for fiscal year 1989 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes.

The Department of the Army has been assigned the responsibility for expressing the views of the Department of Defense on the legislation.

Public Law 100-203 established the Panama Canal Commission as a revolving fund agency. This Law permits the Commission to utilize canal revenues in direct response to canal requirements. It promotes the continued efficient operations of the canal. As a revolving fund agency, the Commission would no longer be subject to budget cuts and predetermined fixed spending limits which compromised its ability to respond to unforeseen or changed business conditions, such as traffic surges, emergencies, or shifts in program priorities. The Department of Defense supported the conversion of the Commission to a revolving fund agency because the conversion would simplify the Commission's financial structure and provide additional flexibility.

Therefore, the Department of Defense objects to the legislation because it establishes fixed spending limits for the Commission's operating expenses and capital outlay. Establishing such a fixed spending limit supplants the purpose of the revolving fund agency enacted by Public Law 100-203. Additionally, the legislation prohibits expending funds to implement a tolls increase. The Commission has testified that a tolls increase may be necessary in fiscal year 1990 to achieve a break-even operation. Prohibiting the Commission from expending funds to implement a tolls increase could cause the Commission to operate at a loss without the ability to make the necessary plans required to implement a tolls increase.

The enactment of the proposed legislation will have no fiscal impact on the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

John Doyle, Deputy

for Robert W. Page
Assistant Secretary of the Army
(Civil Works)

SUBCOMMITTEE ON THE PANAMA CANAL/OCS

BACKGROUND MEMORANDUM
March 16, 1988

TO: Subcommittee Members

FM: Billy Tauzin, MC

RE: Hearing on the FY 89 Budget Authorization for the Panama Canal Commission
Thursday, March 17, 1988
2:30 PM.
1334 Longworth HOB

During the first session of the 100th Congress, the Panama Canal Commission ("the Commission") was changed from an appropriated-fund agency to a revolving-fund agency pursuant to Public Law 100-203. This is the initial authorization hearing for the Panama Canal Commission following this change in law.

OPERATING COSTS AND REVENUES

The Commission projects total operating costs for 1989 to be $471.9 million, including recovery of an FY 1987 operating loss of $0.6 million. The Commission anticipates revenues for FY 1989 to $472.5 million, of which $19.6 million would be generated from a 9.8% increase in tolls. The Commission expects such a toll increase to be effective no sooner than January 1989.

CAPITAL OUTLAY

The Commission projects outlays for capital projects and equipment acquisitions to be $39.5 million in 1989. Among the acquisitions are purchase of a new tugboat and a dredge tender. Capital projects include improvements to transit facilities and fire protection systems, and the replacement of electrical transformers containing PCB.

ADMINISTRATION PROPOSAL

Attached is the proposed authorization legislation for the Panama Canal Commission for fiscal years 1989 and 1990, together with a section-by-section analysis prepared by the Commission.

Board of Directors
Panama Canal Commission

February 19, 1988

The Honorable Jim Wright
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed is proposed legislation, "To authorize expenditures for fiscal years 1989 and 1990 for the Panama Canal Commission to operate and maintain the Panama Canal and for other purposes." A section-by-section analysis of the bill is also enclosed. We request that this proposed legislation be introduced and considered for enactment.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this legislative proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

William R. Gianelli

William R. Gianelli
Chairman

Enclosures

AN ACT

To authorize expenditures for fiscal years 1989 and 1990 for the operation and maintenance of the Panama Canal and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act, Fiscal Years 1989 and 1990."

SEC. 2. AUTHORIZATION OF EXPENDITURES.

The Panama Canal Commission is hereby authorized to make such expenditures within the limits of funds and borrowing authority available to it and in accordance with law, and to make such contracts and commitments without regard t fiscal year limitations as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601) for the operation, maintenance, and improvement of the Panama Canal for fiscal years 1989 and 1990, except that not more than $48,000 for FY 1989 and $52,000 for FY 1990 may be made available for official reception and representation expenses, of which (a) not more than $10,000 for FY 1989 and $12,000 for FY 1990 may be made available for such expenses of the Supervisory Board of the Commission, (b) not more than $5,000 for FY 1989 and $6,000 for FY 1990 may be made available available for such expenses of the Secretary of the Commission, and (c) not more than $33,000 for FY 1989 and $34,000 for FY 1990 may be made available for such expenses of the Administrator of the Commission.

Funds available to the Panama Canal Commission for obligations shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport Commission personnel across the Isthmus of Panama, which may be purchased without regard to price limitations set forth in applicable regulations of any department or agency of the United States or by other law.

SEC 3. REPORTING REQUIREMENTS.

The Panama Canal Commission will provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding:

(1) Any proposed change in the rates of tolls for use of the Panama Canal;

(2) Any payment estimated to be due Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) The initiation of any major capital acquisition or construction project exceeding $10,000,000, which was not specified in the budget estimates submitted to the Congress for the fiscal year in which the project will occur.

SEC. 4. GENERAL PROVISIONS

Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

None of the funds authorized in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 5. EFFECTIVE DATE.

This Act is effective on October 1, 1988.

Section-by-Section Analysis

Section 1.

This section states that the Act is cited as the "Panama Canal Commission Authorization Act, Fiscal Years 1989 and 1990."

Section 2.

This section authorizes the Panama Canal Commission to make such expenditures within limits of funds and borrowing authority available to it, and to make such contracts and commitments without regard to fiscal year limitations as may be necessary for the operation, maintenance, and improvement of the Panama Canal for fiscal years 1989 and 1990, except that official reception and representation expenses, within prescribed limits for fiscal years 1989 and 1990, may be made available for (a) the Supervisory Board of the Commission, (b) the Secretary of the Commission, and (c) the Administrator of the Commission.

In addition, this section specifically authorizes the availability of funds to the Panama Canal Commission for the purchase of passenger motor vehicles (including large heavy duty vehicles) used to transport Commission personnel across the Isthmus of Panama without regard to price limitations under any applicable regulation or law.

Section 3.

This section requires the Commission to give prior written notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding (1) any

proposed changes in toll rates for use of the Panama Canal; (2) any payment estimated to be due Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, pursuant to section 1341(a) of the Panama Canal Act of 1979; and (3) initiation of any capital acquisition or construction project exceeding $10,000,000 not specified in the budget estimates submitted to Congress for the fiscal year in which the project will occur.

Section 4.

This section provides authorization for increases in salary, pay, retirement, or other employee benefits determined by law or authorized by administrative action pursuant to law. It restricts expenditures of the Panama Canal Commission to conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

Section 5.

This section makes the Act effective on October 1, 1988.

FISCAL YEAR 1989

BUDGET PROGRAMS

STATEMENT OF THE
SECRETARY OF DEFENSE REPRESENTATIVE FOR
PANAMA CANAL AFFAIRS AND
CHAIRMAN, BOARD OF DIRECTORS
PANAMA CANAL COMMISSION

BEFORE THE

PANAMA CANAL/OUTER CONTINENTAL SHELF SUBCOMMITTEE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

MARCH 17, 1988

OPENING STATEMENT

OF

MR. WILLIAM R. GIANELLI

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM WILLIAM R. GIANELLI, THE SECRETARY OF DEFENSE REPRESENTATIVE FOR PANAMA CANAL AFFAIRS AND CHAIRMAN OF THE BOARD OF THE PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO PRESENT OUR FISCAL YEAR 1989 BUDGET PROGRAMS AND ALSO REPORT ON THE MORE SIGNIFICANT DEVELOPMENTS AND ACCOMPLISHMENTS PERTAINING TO THE PANAMA CANAL ENTERPRISE. PARTICIPATING WITH ME IN THIS HEARING ARE D.P. McAULIFFE, THE ADMINISTRATOR OF THE COMMISSION, AND MICHAEL RHODE, SECRETARY OF THE COMMISSION.

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS MY APPRECIATION TO THE MEMBERS OF THE SUBCOMMITTEE AND THEIR STAFFS FOR THE VALUABLE ASSISTANCE PROVIDED OVER THE YEARS AND PARTICULARLY IN RECENT MONTHS FOR THE PART THAT THIS COMMITTEE PLAYED IN PASSAGE OF THE REVOLVING FUND LEGISLATION.

REVOLVING FUND CONVERSION

UNDOUBTEDLY, THIS LEGISLATION, WHICH CONVERTED THE COMMISSION FROM AN APPROPRIATED FUND AGENCY TO A REVOLVING FUND AGENCY, RANKS AS ONE OF THE MOST IMPORTANT CHANGES THAT THE COMMISSION HAS EXPERIENCED SINCE THE ENTRY INTO FORCE OF THE TREATY ON OCTOBER 1, 1979. IT IS A CHANGE THAT HAS BEEN LONG SOUGHT BY COMMISSION MANAGEMENT AND ONE THAT WILL PROVE BENEFICIAL TO THE CANAL FROM BOTH AN OPERATIONAL AND FINANCIAL PERSPECTIVE. I BELIEVE THIS CONVERSION COULD NOT HAVE COME AT A MORE OPPORTUNE TIME. WE RECOGNIZE THE PRESSURES THAT WILL CONTINUE TO BE PLACED ON THE U.S. GOVERNMENT BUDGET IN THE FUTURE, AND WE ARE MOST APPRECIATIVE THAT THE MEMBERS OF CONGRESS RECOGNIZED THE INCONGRUITIES OF MAINTAINING THE COMMISSION AS AN APPROPRIATED FUND AGENCY.

REVOLVING FUND STRUCTURE

HAVING SAID THAT, I WOULD LIKE TO ASSURE YOU THAT, AS A REVOLVING FUND, THE BASIC CONCEPTS UNDER WHICH THE PANAMA CANAL OPERATES WILL REMAIN UNCHANGED. THAT IS:

- THE U.S. GOVERNMENT MAINTAINS FULL RESPONSIBILITY FOR THE OPERATION AND MAINTENANCE OF THE CANAL UNTIL DECEMBER 31, 1999.

- THE REQUIREMENT CONTINUES THAT THE CANAL OPERATE ON A SELF-SUSTAINING BASIS AT NO COST TO THE U.S. TAXPAYER.

- THE COMMISSION'S PROGRAMS AND ACTIVITIES CONTINUE TO BE SUBJECT TO THE CONGRESSIONAL BUDGET REVIEW PROCESS, AND

- THE COMMISSION WILL CONTINUE TO BE SUBJECT TO U.S. GOVERNMENT FISCAL AND ACCOUNTING PROCEDURES.

SIGNIFICANT ACTIONS REQUIRED

I AM PLEASED TO REPORT ON TWO ACTIONS THAT TOOK PLACE IN JANUARY 1988 WHICH ARE IN CONFORMANCE WITH THE NEW LEGISLATION.

THE FIRST ACTION WAS THE TRANSFER OF $85 MILLION FROM THE PANAMA CANAL COMMISSION FUND TO THE GENERAL FUND OF THE U.S. TREASURY, WHICH REPRESENTS THE UNREIMBURSED BALANCE OF THE APPROPRIATION FOR FISCAL YEAR 1980 AND WHICH CAME FROM THE GENERAL FUND OF THE U.S. TREASURY; AND OF $62 MILLION ASSOCIATED WITH INTEREST ON THE INVESTMENT OF THE UNITED STATES IN THE CANAL COLLECTED FROM OCTOBER 1, 1979 THROUGH DECEMBER 31, 1985. THE SECOND MAJOR ACTION CONCERNS THE RESTORATION OF THE AFOREMENTIONED INTEREST COLLECTIONS TO THE INVESTMENT BASE WITH A RESULTANT INCREASE OF APPROXIMATELY $6.1 MILLION ANNUALLY OF INTEREST BEING PAID TO THE U.S. TREASURY. THESE ITEMS HAVE BEEN THE SUBJECT OF CONSIDERABLE CONTROVERSY OVER THE YEARS, AND I AM SURE YOU ARE AS PLEASED AS I AM THAT THEY NO LONGER WILL BE MATTERS OF CONTENTION.

BUDGET PROGRAMS

MR. CHAIRMAN, WHILE MR. McAULIFFE WILL ADDRESS IN MORE DETAIL THE BUDGET PROGRAMS AND ACTIVITIES THAT ARE PLANNED IN FISCAL YEAR 1989, WHICH WILL, OF COURSE, INCLUDE THAT PORTION PERTAINING TO ADMINISTRATIVE EXPENSES, I WANT TO AFFIRM THAT THE PROGRAMS FOR THAT YEAR ARE ESSENTIAL AND ARE IN ACCORD WITH THE PROGRAM OF THE PRESIDENT. THESE PROGRAMS AND ACTIVITIES WILL ENABLE US TO CONTINUE TO FULFILL OUR MISSION TO OPERATE THE PANAMA CANAL IN A SAFE AND EFFICIENT MANNER AND AT NO COST TO THE U.S. TAXPAYER. THE CAPITAL INVESTMENT PLANNED FOR FISCAL YEAR 1989 IS ESSENTIAL TO OUR MODERNIZATION EFFORTS AS WE SEEK TO ENSURE THAT THE CANAL REMAINS A VIABLE, COST-EFFECTIVE TRANSPORTATION ALTERNATIVE FOR MARITIME TRADE NOW AND INTO THE FUTURE.

I FORWARDED TO THE CONGRESS ON FEBRUARY 19, 1988, A DRAFT LEGISLATIVE PROPOSAL WHICH AUTHORIZES CANAL OPERATIONS AND CAPITAL EXPENDITURES FOR BOTH FISCAL YEARS 1989 AND 1990. ON BEHALF OF THE ADMINISTRATION, WE ASK FOR YOUR SUPPORT OF THAT PROPOSAL.

ANTICIPATED TOLL RATE INCREASE

THE COMMISSION'S BUDGET FOR FISCAL YEAR 1989 PROJECTS THE NEED FOR A TOLL RATE INCREASE SOMETIME DURING THAT YEAR. THIS ADJUSTMENT IS PREDICATED ON THE CONTINUED INCREASE IN COSTS DUE TO INFLATION IN THE FACE OF ONLY MARGINAL GAIN OR NO GROWTH AT ALL IN CANAL TRAFFIC AND TOLLS. WHILE THE CANAL HAS BEEN ABLE TO ABSORB THE EFFECTS OF INFLATION SINCE ITS LAST TOLL INCREASE IN MARCH OF 1983, THE POINT WILL BE REACHED SHORTLY WHERE THESE RISING COSTS CANNOT BE ABSORBED BY TRAFFIC GROWTH AND COST CONSTRAINTS. I WANT TO ASSURE THE COMMITTEE, HOWEVER, THAT ACTUAL IMPLEMENTATION OF A TOLL INCREASE WILL OCCUR ONLY IF FORECASTED CONDITIONS CONTINUE.

OVER THE NEXT FEW MONTHS, THE COMMISSION WILL BE MONITORING VERY CLOSELY THE REVENUES AND EXPENSES OF THE CANAL IN ORDER TO MAKE A MORE PRECISE DETERMINATION AS TO THE TIMING AND THE AMOUNT OF ANY TOLL RATE INCREASE. WE ARE WELL AWARE OF THE NEED TO KEEP THE CANAL COMPETITIVE WITH OTHER TRANSPORTATION ALTERNATIVES IN TERMS OF PROVIDING EFFICIENT SERVICE AT THE LOWEST POSSIBLE COST. IN THIS CONNECTION, I CONVENED THE JANUARY MEETING OF

THE BOARD AT THE PORT OF LONG BEACH, CALIFORNIA, IN ORDER TO VIEW FIRST-HAND THE INTERMODAL CONTAINER CAPABILITY OF THE PORT-TRUCK-RAIL COMPLEX AND ITS POTENTIAL COMPETITION WITH THE CANAL.

I WANT TO ASSURE THIS COMMITTEE THAT THE COMMISSION APPROACHES ANY CHANGE IN RATES WITH EXTREME CAUTION. THIS CAUTION HAS TO BE BALANCED, HOWEVER, AGAINST THE NEED TO MANAGE THE CANAL ON A FULL COST RECOVERY BASIS AS REQUIRED BY LAW. IT SHOULD BE NOTED THAT IF A TOLL RATE INCREASE IS IMPLEMENTED, IT WILL BE THE FIRST IN SIX YEARS AND WILL BE LESS THAN THE 9.8% INCREASE THAT WE HAD IN 1983. THIS IS MOST LIKELY THE REASON WE DETECTED NO STRONG OPPOSITION TO THE INCREASE FROM THE SHIPPING INDUSTRY WHEN THE COMMISSION ISSUED AN ANNOUNCEMENT ON THIS SUBJECT LAST SUMMER.

WE WILL KEEP THIS COMMITTEE APPRISED OF FURTHER DEVELOPMENTS CONCERNING A POSSIBLE TOLL INCREASE.

SIGNIFICANT FISCAL ACCOMPLISHMENTS

AS WE BEGIN A NEW CHAPTER OF CANAL HISTORY, THAT IS, OPERATING AS A REVOLVING FUND, I WOULD LIKE TO EMPHASIZE THE FISCAL SUCCESS THE COMMISSION HAS ACHIEVED OVER THE LAST EIGHT YEARS.

THE RECORDS SHOW THAT THE COMMISSION HAS CONDUCTED A BREAKEVEN OPERATION OVER THAT PERIOD, GENERATING REVENUES AND EXPENSES OF MORE THAN $3 BILLION EACH, WHILE FINANCING MORE THAN $200 MILLION OF NEEDED CAPITAL INVESTMENT IN THE CANAL, AND AT THE SAME TIME, SHOWING ONLY A NOMINAL PROFIT OF SOME $8 MILLION. THE COMMISSION HAS ACCOMPLISHED THIS WITHOUT THE USE OF ANY U.S. TAXPAYER MONEY, AND HAS SUCCESSFULLY MET ITS OBLIGATION TO COVER ALL CANAL COSTS WITH REVENUES EARNED. THIS COMMITTEE CAN BE CONFIDENT THAT THE REVOLVING FUND ENHANCES THE COMMISSION'S PROSPECTS FOR CONTINUED FISCAL SUCCESS WHILE MAINTAINING A STANDARD OF SAFE AND EFFICIENT TRANSIT SERVICE.

LOYAL SERVICE BY CANAL EMPLOYEES

I WOULD ALSO LIKE TO GO ON RECORD WITH A COMMENDATION FOR THE EMPLOYEES OF THE PANAMA CANAL COMMISSION. DESPITE THE UNSETTLING POLITICAL CONDITIONS EXISTING IN RECENT MONTHS IN PANAMA, OUR EMPLOYEES HAVE, THROUGH THEIR WHOLEHEARTED COMMITMENTS, CONTRIBUTED TO THE UNINTERRUPTED OPERATION OF THE CANAL ENTERPRISE. THIS LOYALTY IS MOST ADMIRABLE AND SHOULD NOT GO UNRECOGNIZED. I BELIEVE THIS IS A GOOD INDICATION OF THE PROSPECTS FOR THE CONTINUED ORDERLY OPERATION OF THE CANAL.

CATASTROPHE INSURANCE

AS A FINAL REMARK, I WOULD LIKE TO ADVISE THIS COMMITTEE THAT THE COMMISSION'S CATASTROPHE INSURANCE PROGRAM WAS PLACED INTO EFFECT ON DECEMBER 24, 1987. WITH THIS INSURANCE, THE COMMISSION IS NOW PROTECTED AGAINST MAJOR AND UNPREDICTABLE REVENUE LOSSES AND EXPENSES ARISING FROM CATASTROPHIC EVENTS. THIS COVERAGE ENHANCES SUBSTANTIALLY THE CAPABILITY OF THE COMMISSION TO OPERATE ON A SELF-SUSTAINING BASIS WITHOUT ANY COST TO THE U.S. TREASURY.

CONCLUSION

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED REMARKS. I WOULD LIKE TO REITERATE MY APPRECIATION TO YOU AND THIS COMMITTEE FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY. IF IT MEETS WITH YOUR APPROVAL, I RECOMMEND THAT MR. McAULIFFE BE ALLOWED TO PRESENT HIS STATEMENT, AND THEN WE BOTH WILL BE AVAILABLE FOR QUESTIONS.

IMPACT OF PLACING PANAMA CANAL COMMISSION PAYMENTS TO PANAMA IN ESCROW

	Description of Payment	Basis	Payee	Frequency/Next Due	Amount	Impact
1.	Tonnage ($0.31/PC Net Ton transiting)	Treaty Art. XIII4(a)	Central Gov't	Monthly/4/15/88	$5,000,000 (est) 3/15/88 payment being placed in escrow.	·PCC placed at leading edge of US policy toward Panama. ·Treaty violation charges in international forums. ·Harassment of USG agencies and employees (Embassy and US Forces as well as PCC).
2.	Fixed Annuity of $10,000,000	Treaty Art. XIII 4(b)	Central Gov't	Same as 1 above	$833,333 3/15/88 payment being placed in escrow	Same as 1, above.
3.	Fixed Public Services (Police and fire protection, street maintenance, street lighting and cleaning, traffic management, garbage collection) in Canal operating and housing areas.	Treaty Art. III (5)	Central Gov't	Monthly 4/15/88	$833,333 3/15/88 payment on hold	[GREATEST IMPACT] ·Withdrawal of services. ·See Note 2, below.
4.	Income tax deductions from pay of Panamanian employees	1963 diplomatic note exchange [preserved by Treaty Minute 2(cc).]	Central Gov't	Biweekly/3/21/88	695,000 (est) 3/7/88 payment on hold	·Employees become personally liable for tax at end of calendar year. ·Denial of "Paz y Salvo" required for individual transactions with government agencies, international travel, commercial license applications, importation of goods, other legal transactions. ·See Note 1, below.

	Description of Payment	Basis	Payee	Frequency/Next Due	Amount	Impact
5.	Educational tax deductions from pay of Panamanian employees.	1972 diplomatic note exchange [preserved by Treaty Minute 2(dd).]	Central Gov't	Biweekly/3/21/88	67,000 (est) 3/7/88 payment on hold.	Attendance of dependents at Public Schools would be denied. Same as 4, above.
6.	Social Security					
	A. Regular (health, on-the-job injury, retirement)	AIA III, Art. VIII	Direct to Caja Seguro Social (CSS)	Monthly/3/25/88		·Covered employees and dependents lose eligibility for health and maternity care at end of current month.
	(i) Employee Contribution (ii) Employer Contribution		(Semi-autonomous agency)		A. (i) 328,000 (est) (ii) 563,000 (est)	
	B. Maternity				B. 8,500 (est)	·See Note 1, below.
7.	Telephone Trunk-line service	Contract	INTEL (Semi-autonomous agency)	Monthly/4/10/88	18,000 (est)	Interruption of local telephone service between Canal area and Panama City, other areas of Republic.

Notes:

1. The income tax, educational insurance and employees' contribution for social security all involve money which belongs to the employees and for which PCC is merely the custodian. Should Panamanian employees of the Canal (and their families) encounter serious problems receiving Panamanian governmental services and health care, worker hostility against the Government of Panama will likely result. This hostility, however, also could be directed against the U.S. in general and the Panama Canal specifically. This could result in massive sickouts, employee slowdowns, work stoppages and other job actions that would seriously disrupt Canal operations. Should that occur, it could damage the Canal's credibility as a transportation mode of choice which is operated for the benefit of all nations.

2. Withdrawal of these services would have varying impacts on PCC, especially in the area of police protection. The Treaty specifically prohibits PCC from performing police activities and agency guards may not be used to protect housing. Withdrawal of Panamanian police protection would amount to an open invitation to thieves and vandals to enter Canal operating and housing areas. The PDF might even encourage such actions. PCC employees and their families would be in a state of panic. Many employees would opt to stay away from work to protect their families and property and, in turn, Canal operations would become disrupted. U.S. military forces then might have to assume the police protection responsibility when it became clear that U.S. lives and property were in immediate jeopardy.

   Fire protection is of potential concern. Fire protection in Canal operating and housing areas is a shared responsibility of the Commission's Fire Division and Panama's Fire Department (Bomberos). Each is the back-up or secondary response for the other. The need for this back-up coverage is especially important regarding the Balboa residential areas and the Pedro Miguel locks. Should the Panama Bomberos be withdrawn, then the Commission's own capability would be stretched should there be a major ship or structural fire or a series of smaller fires.

   Failure to collect garbage will obviously not be as serious as withdrawal of fire and police protection. The Commission could, on an emergency basis, collect garbage in the Commission housing areas. It could not effectively do so, however, on a sustained basis, because it is not manned and equipped to do so.

FISCAL YEAR 1989

BUDGET PROGRAMS

STATEMENT OF THE
ADMINISTRATOR, PANAMA CANAL COMMISSION

BEFORE THE

PANAMA CANAL/OUTER CONTINENTAL SHELF SUBCOMMITTEE
COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

MARCH 17, 1988

OPENING STATEMENT

OF

MR. DENNIS P. McAULIFFE

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AM DENNIS PHILIP McAULIFFE, ADMINISTRATOR OF THE PANAMA CANAL COMMISSION. I AM PLEASED TO APPEAR BEFORE YOU TODAY WITH THE HONORABLE WILLIAM R. GIANELLI TO REQUEST AUTHORIZATION FOR THE FISCAL YEAR 1989 BUDGET PROGRAMS OF THE PANAMA CANAL COMMISSION, THE AGENCY RESPONSIBLE FOR THE OPERATION OF THE PANAMA CANAL.

I JOIN WITH MR. GIANELLI IN EXPRESSING, ON BEHALF OF THE PANAMA CANAL COMMISSION, OUR APPRECIATION FOR THE CONTINUING ASSISTANCE RECEIVED FROM THIS COMMITTEE AND ITS MEMBERS.

REVOLVING FUND CONVERSION

AS MR. GIANELLI MENTIONED EARLIER, A MAJOR AND IMPORTANT MILESTONE WAS REACHED THIS JANUARY WHEN THE CONGRESS, WITH THE DILIGENT EFFORTS AND SUPPORT OF THIS COMMITTEE, ENACTED LEGISLATION TO CONVERT THE COMMISSION TO A REVOLVING FUND AGENCY. THE NEW ARRANGEMENT, BY PERMITTING THE UTILIZATION OF CANAL REVENUES IN DIRECT RESPONSE TO CANAL REQUIREMENTS, WILL PROMOTE THE CONTINUED EFFICIENT OPERATION OF THE WATERWAY. IMPORTANTLY ALSO, THE COMMISSION WILL NO LONGER BE SUBJECT TO ARBITRARY BUDGET CUTS AND PRE-DETERMINED FIXED SPENDING LIMITS WHICH COMPROMISED THE ABILITY OF THE COMMISSION TO RESPOND TO UNFORESEEN OR CHANGED BUSINESS CONDITIONS, SUCH AS TRAFFIC SURGES, EMERGENCIES, OR SHIFTS IN PROGRAM PRIORITIES.

WHILE THE CHANGE TO A REVOLVING FUND RECOGNIZES THE BUSINESS TYPE CHARACTER OF THE COMMISSION, IT DOES NOT END NOR DILUTE CONGRESSIONAL OVERSIGHT AND CONTROL OVER THE OPERATION OF THE PANAMA CANAL, WHICH IS OUR PRINCIPAL REASON FOR BEING HERE TODAY.

FISCAL YEAR 1987 FINANCIAL RESULTS

I AM PLEASED TO REPORT THAT, IN SPITE OF THE UNANTICIPATED COST BURDEN IMPOSED BY THE GAILLARD CUT LANDSLIDE EARLY IN THE FISCAL YEAR, THE COMMISSION RECORDED A NEAR BREAKEVEN OPERATION IN 1987, RECORDING A MINIMAL $600,000 LOSS. THIS RESULT WAS ACCOMPLISHED BY THE FINANCING OF SLIDE OUTLAYS THROUGH A COMBINATION OF SAVINGS AND REPROGRAMMING ACTIONS. UNFORTUNATELY, THE DELAY IN RECEIVING SUPPLEMENTAL FUNDING CAUSED THE DEFERRAL OF CERTAIN PLANNED MAINTENANCE PROJECTS AND PROCUREMENTS. THIS LOSS WILL BE CARRIED FORWARD FOR RECOVERY IN FUTURE PERIODS AS PROVIDED BY THE PANAMA CANAL ACT.

OUTLOOK FOR THE CURRENT FISCAL YEAR

THROUGHOUT THE FIRST FOUR MONTHS OF FISCAL YEAR 1988, CANAL TRAFFIC AND TOLLS WERE ABOVE BUDGET PROJECTIONS. AT THE SAME TIME, THE COMMISSION HAD TO CONSTRAIN EXPENDITURES TO REMAIN WITHIN THE FUNDING LIMITS IMPOSED BY THE CONTINUING RESOLUTIONS. AS A CONSEQUENCE OF THESE TWO FACTORS, COMMISSION OPERATIONS OVER THIS PERIOD RECORDED A PROFIT. DESPITE THE PROFIT REALIZED TO DATE, THE COMMISSION STILL EXPECTS TO ACHIEVE A BREAKEVEN OPERATION BY YEAR END. AS THE YEAR PROGRESSES, TRAFFIC IS EXPECTED TO COME IN LINE WITH PROJECTIONS; AND AS A RESULT OF THE ENACTMENT OF THE REVOLVING FUND LEGISLATION, THE COMMISSION NOW HAS THE CAPABILITY TO AGGRESSIVELY PURSUE ITS PLANNED PROGRAMS.

FISCAL YEAR 1989 OPERATIONS

AS SET FORTH IN THE BUDGET DOCUMENT, WE BELIEVE THERE WILL BE A NEED FOR A TOLL RATE INCREASE IN FISCAL YEAR 1989 TO ACHIEVE A BREAKEVEN OPERATION, AS IS REQUIRED BY LAW. THIS INCREASE WOULD BE NECESSARY TO MAKE UP A PROJECTED SHORTFALL IN REVENUES THAT YEAR OF $19.0 MILLION AND TO ALSO PROVIDE FOR THE RECOVERY OF THE $600,000 LOSS RECORDED IN FISCAL YEAR 1987. THIS UNDERRECOVERY SITUATION REFLECTS THE FACT THAT WE ARE REACHING THE POINT WHERE THE EFFECTS OF INFLATION CANNOT BE ABSORBED BY TRAFFIC GROWTH AND COST CONSTRAINTS.

AS INDICATED BY MR. GIANELLI, THE COMMISSION WILL MONITOR REVENUES AND EXPENSES CLOSELY THROUGHOUT THE ENSUING PERIOD TO ASSURE THAT BOTH THE AMOUNT AND EFFECTIVE DATE OF ANY REQUIRED TOLL RATE CHANGE ARE IN CONFORMITY WITH ACTUAL REQUIREMENTS. AT THIS TIME, IT WOULD APPEAR THAT A MODEST TOLL INCREASE OF SOMETHING LESS THAN THE 9.8% INCREASE THAT WE HAD IN 1983 WOULD BE NECESSARY SOMETIME DURING 1989, AND POSSIBLY IN THE LATTER PART OF THE YEAR.

EXPENSES FOR 1989 ARE ESTIMATED AT $471.9 MILLION. OF THIS AMOUNT, APPROXIMATELY HALF IS FOR PERSONNEL COMPENSATION AND BENEFITS. THE REMAINDER IS FOR OTHER SERVICES AND REQUIRED PAYMENTS, TO INCLUDE TREATY PAYMENTS TO THE REPUBLIC OF PANAMA AND INTEREST PAYMENTS TO THE U.S. TREASURY. THERE IS NO PROVISION IN THE BUDGET FOR A CONTINGENT PROFIT PAYMENT TO THE REPUBLIC OF PANAMA.

OPERATING REVENUES IN 1989 ARE ESTIMATED TO BE $472.5 MILLION. OF THIS TOTAL, $358.6 MILLION IS DERIVED FROM TOLLS ASSESSED TRANSITING VESSELS AND $113.9 MILLION IS FROM REVENUES FOR OTHER SERVICES PROVIDED BY THE COMMISSION, PRINCIPALLY TO TRANSITING VESSELS, THE REPUBLIC OF PANAMA, AND OTHER U.S. GOVERNMENT AGENCIES OPERATING IN THE AREA.

ADMINISTRATIVE EXPENSES

WITH RESPECT TO ADMINISTRATIVE EXPENSES, THE REVOLVING FUND LEGISLATION LIMITS SUCH EXPENSES TO THE AMOUNT PROVIDED ANNUALLY IN APPROPRIATION ACTS. AS PROVIDED IN THE PRESIDENT'S BUDGET FOR FISCAL YEAR 1989, THE COMMISSION PROJECTS A REQUIREMENT OF $50.3 MILLION FOR THIS CATEGORY OF EXPENSE. I WOULD LIKE TO ADDRESS IN MORE DETAIL THE FUNCTIONS THAT ARE INCLUDED IN THIS CATEGORY.

1. EXECUTIVE DIRECTION--$11.5 MILLION. THIS PROVIDES FOR THE MANAGEMENT, PLANNING, DIRECTION, AND CONTROL OF OVERALL COMMISSION ACTIVITIES, SUCH AS THE OFFICE OF THE ADMINISTRATOR, OTHER ADMINISTRATIVE SERVICES, AND ALSO THE COST OF THE SECRETARY'S OFFICE IN WASHINGTON, D.C.

2. OPERATIONS DIRECTION--$2.3 MILLION. THIS PROVIDES FOR THE BUREAU-LEVEL DIRECTION AND COORDINATION OF SEPARATE OPERATING BUREAUS WHICH ARE DIRECTLY RELATED TO THE TRANSIT AND SUPPORT FUNCTIONS OF THE COMMISSION.

3. FINANCIAL MANAGEMENT--$13.8 MILLION. THIS FUNCTION IS RESPONSIBLE FOR THE DEVELOPMENT OF FINANCIAL, ACCOUNTING, AND RATE-MAKING POLICIES, ESTABLISHMENT OF SYSTEMS OF INTERNAL CONTROL, AND PROCESSING OF THE COMMISSION'S BIWEEKLY PAYROLL.

4. PERSONNEL ADMINISTRATION--$4.2 MILLION. THIS FUNCTION HAS THE AGENCY-WIDE RESPONSIBILITY FOR PERSONNEL ADMINISTRATION AND MANAGEMENT, AND THE JOINT PERSONNEL PROGRAM THAT PROVIDES STAFFING SERVICES FOR PARTICIPATING FEDERAL AGENCIES IN THE PANAMA CANAL AREA.

5. EMPLOYMENT COSTS--$18.5 MILLION. THIS CATEGORY OF EXPENSE COVERS CERTAIN EMPLOYMENT COSTS OF THE COMMISSION WHICH ARE GENERAL IN NATURE AND NOT IDENTIFIED WITH OTHER SPECIFIC ACTIVITIES. INCLUDED ARE PROVISIONS FOR REIMBURSEMENT TO THE DEPARTMENT OF DEFENSE FOR EDUCATION AND HOSPITAL SERVICES, THE COMMISSION'S SHARE OF PREMIUM COSTS FOR EMPLOYEES' HEALTH BENEFITS INSURANCE, EMPLOYEES' HOME LEAVE TRAVEL, AND REPATRIATION COSTS.

I BELIEVE IT IS IMPORTANT TO POINT OUT THAT THE LARGEST PORTION OF THE ADMINISTRATIVE EXPENSE CATEGORY IS COMPRISED OF PERSONNEL COSTS FOR PERMANENT EMPLOYEES ALREADY ON THE ROLLS AND FOR CERTAIN FUNCTIONS WHICH PROVIDE SERVICE TO THE ENTIRE COMMISSION, SUCH AS THE PAYROLL DEPARTMENT, CENTRAL COMPUTER FACILITY, AND PERSONNEL ADMINISTRATION, WHICH IN REALITY ARE MORE OPERATIONAL THAN ADMINISTRATIVE IN NATURE. IN ADDITION, THERE ARE CERTAIN EMPLOYMENT COSTS WHICH ARE STATUTORILY REQUIRED, SUCH AS THE EMPLOYER'S CONTRIBUTION FOR GOVERNMENT-SPONSORED HEALTH AND LIFE INSURANCE, OVER WHICH THE COMMISSION HAS NO CONTROL.

AS A FINAL COMMENT ON THESE ADMINISTRATIVE EXPENSES WHICH I HAVE DESCRIBED, IT SHOULD BE NOTED THAT THESE COSTS REPRESENT ONLY 10 PERCENT OF OUR ANNUAL BUDGET, AN OVERHEAD LEVEL WHICH I BELIEVE DEMONSTRATES THE EFFECTIVENESS OF MANAGEMENT IN HOLDING SUCH COSTS TO A MINIMUM. SETTING A LIMITATION BELOW

THE LEVEL REQUESTED IN THE BUDGET, WHILE PROVIDING NO ADDITIONAL MONEYS TO THE U.S. TREASURY AND PRODUCING NO SIGNIFICANT SAVINGS TO OVERALL CANAL OPERATIONS, WOULD DISPROPORTIONATELY IMPACT ON THE ABILITY OF THE COMMISSION TO CARRY OUT THE MANAGEMENT FUNCTIONS NECESSARY TO THE OPERATION OF THE WATERWAY.

CAPITAL PROGRAM

TURNING TO THE CAPITAL PROGRAM FOR FISCAL YEAR 1989, WE ARE PROJECTING A REQUIREMENT FOR $39.5 MILLION. AS IN PAST YEARS, THE MAJOR PORTION OF THE PROGRAM IS DEVOTED TO ESSENTIAL TRANSIT FACILITIES AND EQUIPMENT. IN ADDITION, THE PROGRAM PROVIDES FOR NEEDED UPGRADING OF POWER AND COMMUNICATIONS SYSTEMS. MAJOR ITEMS IN THE 1989 PROGRAM INCLUDE THE REPLACEMENT OF ONE TUGBOAT; REPLACEMENT OF A DREDGE TENDER; CONSTRUCTION AND REPLACEMENT OF SWITCHGEAR FACILITIES AT THE LOCKS; PURCHASE AND INSTALLATION OF NAVIGATIONAL AIDS; AND CONTINUED UPGRADING OF THE FIRE PROTECTION SYSTEM AT THE LOCKS.

CONCLUSION

BEFORE CONCLUDING MY REMARKS ON THE 1989 BUDGET, I WOULD LIKE TO POINT OUT THAT THE SLUGGISH PERFORMANCE IN TRAFFIC AND TOLLS PROJECTED FOR THAT YEAR IS EXPECTED TO BE SHORT LIVED; AND BY 1990, CANAL BUSINESS SHOULD RESUME A MODERATE GROWTH PATTERN WHICH WE FORECAST TO CONTINUE UNTIL AT LEAST 1992.

FINALLY, I AM PLEASED TO REPORT THAT THE POLITICAL DISTURBANCES THAT ARE OCCURRING IN PANAMA HAVE NOT AFFECTED THE OPERATIONS OF THE CANAL. THIS IS PRIMARILY DUE TO THE DEDICATION AND PROFESSIONALISM OF OUR EMPLOYEES, MANY OF WHOM RESIDE IN PANAMA CITY, AND WHO ON MANY OCCASIONS HAVE HAD TO TAKE EXTRAORDINARY MEASURES TO TRAVEL TO WORK. I, THEREFORE, JOIN MR. GIANELLI IN COMMENDING THE COMMISSION WORK FORCE FOR ITS OUTSTANDING PERFORMANCE.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED REMARKS. I SHALL BE PLEASED TO JOIN MR. GIANELLI IN ANSWERING ANY QUESTIONS YOU OR OTHER MEMBERS OF THE COMMITTEE MAY HAVE.

ADDITIONAL QUESTIONS SUBMITTED BY CONGRESSMAN FIELDS AND OTHER REPUBLICAN MEMBERS OF THE SUBCOMMITTEE

INTEREST PAYMENTS

Question. What is our current investment base in the Panama Canal?

Answer. The investment base on January 31, 1988 was $128.7 million, which reflects the transfer of $61.7 million associated with the accumulated interest collections from October 1, 1979 through December 31, 1985

Question. What rate of interest was used to calculate the $13.1 million interest payment in fiscal year 1989?

Answer. The interest rate used to calculate the Commission's interest expense in fiscal year 1989 is 10.201 percent. This rate was suggested by the U.S. Treasury for the Commission's use in estimating the interest expense for 1989.

Question. What would your interest payment have been without the transfer of the $61.7 million?

Answer. It is estimated that without the transfer of the $61.7 million of accumulated interest, the interest expense of the Commission in 1989 would amount to approximately $6.7 million.

Question. What is the total that the Commission has now paid in interest payments since fiscal year 1980?

Answer. After transferring the $61.7 million to the U. S. Treasury, the Commission has paid $73.5 million through fiscal year 1987 as interest on the United States investment in the Panama Canal.

TOLL INCREASE

Question. In your budget justification, you note that there will not be a toll increase before January 1989. How much of a toll increase are you anticipating?

Answer. It is expected that any toll increase in fiscal year 1989 will be less than the 9.8 percent increase (the last toll-rate adjustment) that was implemented in March of 1983.

Question. What kind of economic analysis have you done to study the impact of such an increase and will it cause a significant loss of Canal traffic?

Answer. A sensitivity analysis of Canal traffic to transit cost increases was recently performed by consultants under contract to the Commission. The firm Temple, Barker and Sloane, Inc., found that cost increases of the magnitude currently contemplated would have no discernible impact on Canal trade. This finding is similar to conclusions reached in previous sensitivity studies developed for the Commission over a number of years by different consultants.

Question. Could you briefly describe for the Subcommittee the process and mandated procedures that you must satisfy in order to alter the level of your Canal tolls?

Answer. The procedures for a toll adjustment, as set forth in the Panama Canal Act of 1979, require a series of actions which require 9 to 12 months to complete. The first portion of this time--3 to 6 months-- is spent on the development within the Commission of certain analysis to confirm the need for the toll adjustment and the impact of such an adjustment. These analyses are required by the Act of 1979 and include the basis and justification for the proposed change, the impact of the change upon the competitive position of the Canal, the domestic fleets and international trade of the United States and Panama, as well as on the geographical areas of the two countries.

A second and public phase of the toll procedure takes about 6 months to complete. This phase starts when the Commission's Board makes its decision to recommend a toll change. This is followed with required public notices in the Federal Register, an open hearing no less than 30 days after the notice is published in the Register, a recommendation to the President of the United States, which is also published in the Register, and finally a decision by the President. The President's action on toll changes is again published in the Register at least 30 days before the effective date of the toll change.

Question. Does Congress have the ability to lower or stop a toll increase?

Answer. The procedures established in the Panama Canal Act of 1979 do not provide for direct, formal participation by the Congress. However, the Commission and the President would carefully consider any recommendations that the Congress may have on toll increases.

Question. Since these steps are required by law, how do you respond to those who argue that you could reduce your revenues within a relatively short period of time--60 to 90 days--by simply decreasing your toll base?

Answer. This alternative is not a viable one. To adjust the toll rates downward entails going through the same procedure as increasing the rates. Consequently, it is not a practical alternative.

The Commission believes that stable rates are important to our customers as they develop their plans for use of the Canal. Frequent raising and lowering of Canal toll rates are not considered in the best interest of the Canal or our customers.

Question. How many toll increases have you had since the creation of the Panama Canal Commission, and what was the level of each increase?

Answer. The Commission has had two toll-rate increases. The first one was on the effective date of the new Panama Canal Treaty (October 1, 1979); that adjustment amounted to 29.3 percent and was primarily due to increased annuity payments to Panama that became effective with entry into force of the new Treaty. The second increase, amounting to 9.8 percent, was implemented on March 12, 1983, and was required due to the effects that the hyperinflation of the early 1980's had on Commission costs.

REVOLVING-FUND SYSTEM

Question. Mr. Gianelli, as you know, the primary purpose for the shift to a revolving-fund system was to allow the Commission to respond more quickly to changing business and shipping conditions, to insulate you from the yearly budget process, and to improve the operation of the Canal. What are your early reactions to this change?

Answer. Although the Commission has not had a great deal of time under the revolving-fund system, it is considered one of the most important changes since implementation of the Treaty in 1979. It is a positive action that enhances the operation of the Canal. The conversion of the Commission to a revolving fund will now allow it to respond to changing work load requirements and emergency situations on a timely basis. Under the appropriated-fund structure, remedial action could have been delayed until the Commission could have obtained a supplemental appropriation if its initial appropriations were insufficient to cover the additional costs. It also removes the Commission from the possibility of having to operate under the constraints of any artificial funding limitations.

Question. What is your reaction to the statement that a "revolving fund gives the Commission an enormous incentive for maintaining higher tolls and inefficient operations?"

Answer. It is merely coincidental that the Congress is reviewing the Commission's fiscal year 1989 budget reflecting a need for a modest toll increase shortly after the Commission was converted to a revolving fund. We want to assure you that this is not a cause-and-effect result. Regarding the quoted statement, the best response to it is simply to look at the Commission's toll-rate adjustment history during the some 74 years of its existence. During that period, there have only been four toll-rate adjustments and one admeasurement change which increased revenue, with the first such rate adjustment made in July 1974. During the first nine years of the Commission's existence, there have been two rate adjustments. The first one for some 29 percent on October 1, 1979 was necessary to cover, primarily, the substantially increased annuity payments to Panama required under the present Treaty. The second one for a modest 9.8 percent in March 1983 was required due to the effects that the hyperinflation of the early 1980's had on Commission costs.

In addition to this history of minimal toll-rate adjustments, the Canal management is acutely aware of the competitive arena under which the Canal operates. Accordingly, the Commission approaches any change in rates with extreme caution. Finally, the Canal has had a long-standing policy of maintaining stability in toll rates as that also serves to help the Canal maintain its competitive position among the ever more competitive transportation industry.

It is precisely because there are alternatives to the Panama Canal that the obverse of the quoted statement is true. There is an incentive for the Commission to hold toll rates to their absolute minimum in order to retain Canal customers.

Question. One of the requirements and benefits of Public Law 100-203 was that the Commission reimburses to the General Fund of the U.S. Treasury the $85.6 million from the original fiscal year 1980 appropriation. Has that transfer taken place?

Answer. Yes, the transfer to the General Fund of the Treasury was accomplished in January.

Question. The Panama Canal Revolving Fund Act also permits the Commission to acquire additional catastrophe insurance. In light of the internal problems within Panama, have you purchased new insurance to cover any unforeseen development? Have the current political events made it more difficult for the Commission to obtain additional insurance coverage?

Answer. On December 24, 1987, the Commission purchased an "all-risks" insurance policy to protect it against unpredictable revenue losses and expenses arising from catastrophic events. This policy is designed to protect the Commission against all possible risks for which insurance can be purchased. Excepted from the policy, simply because it is unavailable, is coverage for losses arising from war, whether declared or undeclared; losses from nuclear incidents; and losses of revenue from labor strikes, whether by Canal employees or others, which affect the normal operation of the waterway.

The Commission's insurance policy includes protection from catastrophic losses arising from riots, civil commotion, and other disturbances. This particular coverage only, however, is subject, as is the practice in the insurance industry, to cancellation by the underwriters at any time upon seven days' notice. Its continuation, or reinstatement, is contingent upon renegotiation of terms, conditions, and premium.

Our insurance broker visited us in Panama early this month and did not express any significant concerns regarding the current political situation. They have previously stated that the London underwriters, who carry 99 percent of the Commission's insurance policy, have deemed Panama to be a relatively low risk as regards losses arising from riots, civil commotion, and other disturbances. However, our broker noted that if our underwriters perceive a significant increase in these risks, it is most likely that they would invoke their right to cancel this particular coverage while offering to renegotiate its terms, conditions, and premium.

Question. On page 7 of your budget justification, you note that there is $49,611,000 in administrative expenses which require an appropriation from Congress. Could you briefly describe and give us a breakdown of what these expenses represent?

Answer. The amount reflected on page 7 ($49,611,000) is the accrued expenditure for administrative expenses in 1989. The Commission's obligational requirement, on which the limitation is set, is estimated at $50,287,000. No appropriations are requested for this purpose, even though the amount is included in the appropriation bill as a limitation amount.

Description:

1. Executive Direction - $11.5 million. This activity is shown on page 24. It provides for the management, planning, direction, and control of overall Commission activities, such as the Office of the Administrator, other administrative services, and also the cost of the Commission Secretary's Office in Washington, D. C.

2. Operations Direction - $2.3 million. This activity is shown on page 25. It provides for bureau-level direction and coordination of the Commission's three operating bureaus, which are directly responsible for the transit and support functions of the Commission.

3. Financial Management - $13.8 million. This activity is shown on page 26. This function is responsible for the development of financial, accounting, and rate-making policies, establishment of systems of internal control, and processing of the Commission's biweekly payroll. It also includes the operation of the Commission's Central Computer Facility, which is operated 24 hours a day, 7 days a week, in support of the Canal transit function.

4. Personnel Administration - $4.2 million. This activity is shown on page 27. This activity has the agency-wide responsibility for personnel administration and management, as well as the joint personnel program that provides personnel and salary policy guidance and conducts the merit employment system for all Federal agencies on the Isthmus of Panama.

5. Employment Costs - $18.5 million. The expenses covered under this activity are detailed on page 28. This category of expense covers certain employment costs of the Commission, which are general in nature and not identified with other specific activities. Included are provisions for reimbursement to the Department of Defense for education and hospital services, the Commission's share of premium costs for employees' health benefits insurance and other statutory costs, and employees' home-leave travel and repatriation costs.

Question. It seems to me that that these expenses are almost like entitlement programs. Is there any way you could reduce these amounts? For instance, how would you respond if your administrative expenses were cut by an arbitrary figure of let's say, 5 percent?

Answer. Yes, in a sense, some of these costs, such as disability payments, are akin to entitlement programs. However, the amounts of such entitlements are set in accordance

with existing laws, and those amounts cannot be changed by the Commission. Those that are not, have little flexibility for adjusting downward without unduly hindering the administration of the Panama Canal.

Relative to the question of how the Commission would respond to a 5 percent reduction, it is important to point out that most of the costs making up the Administrative Expense category under limitation are for personnel compensation for permanent employees already on the rolls and that the majority of these employees (some 70 percent) are Panamanian nationals.

A reduction of the magnitude suggested would be very harmful to the continued efficient administration of the Canal. In the first place, the setting of an artificial funding ceiling would leave the Commission with little choice but to conduct a reduction in force. Unfortunately, such a reduction in force would not mean that there is a commensurate reduction in the Commmission's administrative work load. Payrolls would still have to be met; computer support of the transit function would still have to be provided on a 24 hours a day, 7 days a week basis; personnel actions for employee accessions, separations, and retirements would still have to be processed; etc. In the face of such a reduction, the Commission would have to make do by curtailing certain administrative activities, accepting an ever increasing backlog in other activities with corollary increases in the time delays required for completing the actions, etc. Secondly, since the majority of the employees who would be affected by a reduction in force are Panamanians, in a real sense, the time and money the Commission has spent in training these employees would have being wasted. Lastly, as a consequence of such an action, the Commission would have to contend with the political fallout that would arise from separating Panamanian employees and thereby exacerbate the political problems presently being experienced in Panama.

Moreover, as it regards the employment costs category, the Commission would have to continue making those payments since those costs are basically akin to the entitlement programs addressed in the question, i.e., they are required by law or administratively adopted in accordance with statutory requirements, such as in the case of the employer's contributions to FEHBA, FICA, and FEGLI programs. The Commission simply does not have any discretionary authority regarding the amount and when the payment for such contributions are to be made.

Finally, reductions in the Administrative Expense area are really inappropriate since these costs are covered by the Commission's own revenues, and savings arising from such actions have the potential for resulting in a contingent profit payment to Panama due to the Treaty provision regarding profits generated by the Commission.

Question. Mr. Gianelli, one of the payments you normally make to the Republic of Panama is $10 million a year for public services. Doesn't the Treaty require the Panamanian Government to provide you with a breakdown of those services? Have you ever received such an accounting?

Answer. The Panamanian Government has never established a detailed cost accounting program which is necessary in order for them to properly identify their actual costs involved in providing the array of public services, especially police protection, which they provide. As a result, the U. S. Government has never been provided with an appropriate accounting of the public services provided under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

Question. How would you describe the current condition of the roads, bridges, and other infrastructure within the Canal area?

Answer. The roads and other infrastructure in the Canal operating and housing areas, which are covered under the $10 million public services payment, are in reasonably acceptable condition. The condition of other roads in the Canal area, which were transferred to Panama under the Treaty, range from a reasonably acceptable condition to an extremely unsafe, severely deteriorated condition. In particular, the Madden Forest Preserve road, which is of vital importance to Canal operations, is in an advanced state of disrepair. These roads are still used by the Commission and the U.S. military forces in the conduct of their respective responsibilities on the Isthmus.

CAPITAL OUTLAY

Question. On page 36 of your budget document, you indicate that you intend to acquire a new tug in FY 1989. With that acquisition, how many active tugs will you have in the PCC fleet?

Answer. The new tug the Commission intends to acquire in fiscal year 1989 will replace one of the existing Commission tugs that lack adequate maneuverability and the capacity to handle the increasing number of large vessels transiting the Canal. The Commission tug fleet will remain at 18 operational tugs--16 assigned to transit-related tasks and 2 which are used to support dredging operations and installation of the turntables at all locks.

Question. Why has the cost of the tug increased from $3.7 million to $4.2 million in fiscal year 1989?

Answer. The fiscal year 1989 tugboat procurement estimate includes a 4 percent price escalation and certain design modifications which will increase the cost.

Question. Mr. Gianelli, you state that the Commission intends to acquire a new dredge tender in FY 1989. What are the functions of a dredge tender, and how many do you currently have available for use in the Canal?

Answer. The dredge tenders support a non-self-propelled fleet of dredging equipment operated by the Commission. The fleet includes dredges, floating cranes, a drillboat and various barges engaged in Canal improvement projects and routine channel (Canal) maintenance. Two dredge tenders, the CHAGRES and the CLEM PERRIN, are available for use in the Canal. The Commission also uses a small tug, the SAN PABLO, as a dredge tender. The purchase of a dredge tender will replace the CLEM PERRIN and the small tug.

Question. I understand that several senior American personnel have changed from the Civil Service Retirement program to the new FERS program and have been able to stay with the Commission beyond their originally scheduled retirement date. Is this causing any type of problem for the Commission or in turning over key positions to Panamanians?

Answer. Three "senior" U. S. citizen employees switched to FERS, thereby avoiding mandatory retirement. This represents two percent of our executive and managerial positions. It is anticipated that these employees will stay on perhaps only one or two years beyond their former mandatory retirement date. Accordingly, the impact on increasing Panamanian participation in executive/managerial positions is negligible.

OPERATION

Question. What is the general outlook for traffic in FY 1989?

Answer. Panama Canal net tonnage and tolls revenue are expected to continue at present levels in fiscal year 1989. We expect a traffic loss of some automobile imports from Japan through the Canal. Most other Canal trades are anticipated to show some growth next year; these gains will be sufficient to offset the losses in the automobile trade.

Question. Have you done any calculations of what it has cost the Commission in terms of the additional expenses because of the ongoing internal political problems?

Answer. Costs related to recent events have not yet been quantified. However, additional costs are being incurred due to:

a. Increased general security measures;

b. Use of water-borne transport for transisthmian travel when necessary;

c. Overtime for tellers due to expanded check-cashing requirements resulting from bank closures; and

d. Shuttle bus service from outlying areas to Canal facilities.

Question. Is there any truth to the rumor that Panama intends to charge the users of the Canal a buoy and light fee? What has happened to that proposal and what is their justification?

Answer. The Government of Panama did announce that its National Port Authority would be charging a lights and buoys tariff on all vessels passing through Panamanian waters, even those here solely to transit the Panama Canal. Such a tariff not only would be violative of the Treaty, but also of customary international law principles, including those regarding innocent passage. International shipping associations, the Commission and the Department of State vehemently protested this action. Before any fees were collected, Panama announced cancellation of this fee.

MISCELLANEOUS

Question. Do you anticipate transferring any excess property or housing to the Government of Panama in FY 1989?

Answer. As has been the Commission's practice to date, housing and other properties which become excess to the needs of this agency are transferred to the Government of Panama. Although specific excess property cannot be identified at this time, some housing units, together with any non-removable improvements, will be released to the GOP in FY 1989.

Question. What is the status of the sea-level canal study? What was accomplished in 1987?

Answer. Article XII of the Panama Canal Treaty commits the United States and Panama to jointly study the feasibility of a sea-level canal in the Republic of Panama. Japan has joined with the United States and Panama as a partner in the Canal Alternatives Study Commission to conduct that study, which has been expanded to include other alternatives in addition to the sea-level canal. The United States responsibility for carrying out that study rests with the Department of State, and the Panama Canal Commission is limiting its participation to that of an observer and occasional advisor. Accordingly, information requests regarding the status of the Canal Alternatives Study would more appropriately be directed to the Department of State.

Question. What were your final revenues versus outlay totals for fiscal year 1988? Do you anticipate a profit payment to Panama?

Answer. At this point in time, the Commission does not have final revenues and outlay totals for fiscal year 1988. Through January, the Commission has a favorable operating result, in part, due to having to operate under a Continuing Resolution during the early part of the fiscal year. Now, as a result of converting to the revolving fund in January, the Commission will be aggressively pursuing its budget programs for the year, and it is expected that by the end of the year, that the Commission will have an essentially break-even operation. In this situation, no profit payment would be due the Republic of Panama.

Question. What was the final cost of the cleanup of the landslide at Gold Hill? Is that area now secure or do you anticipate further slides in the future?

Answer. Stabilization work on the October 1986 landslide is still ongoing. Actions taken in 1987 in the landslide area include excavation at the head of the landslide, dredging to partially restore the catchment basin, and the construction of drainage ditches. The stabilization work realized to date has been particularly effective. Landslide movements virtually came to a standstill in 1987 even though there was more rainfall in 1987 than in 1986. Total cleanup cost for the landslide was $11.2 million.

Preventive stabilization measures have also been taken on Gold Hill, in conjunction, with the stabilization of the October 1986 Landslide. Gold Hill was a major contributing factor to the October 1986 landslide.

Question. In the past, we have talked about the deforestation problem above Gatun Lake and possible consequences on the water levels in the lake. Can you address this possible problem?

Answer. Deforestation has not affected the water balance of the Panama Canal or its reservoirs, and there is no evidence that significant impacts will occur in the foreseeable future. Most recent reports from Panama's Institute of Renewable Natural Resources confirm that cutting of primary forest throughout the Upper Chagres Watershed above Gatun Lake has continued to decrease and is now at the lowest rate in 25 years. In addition, healthy stands of older secondary vegetation are increasingly observed at these protected areas. The Commission maintains a strong meteorological and hydrographic monitoring program, including surveys of upper basin reservoir sedimentation. The findings indicate that usable water storage has been reduced by only 2 percent due to siltation after almost 50 years, which is far below levels that could begin to have an impact on the Canal and is even greater assurance that there is no long-term threat to efficient water management.

POLITICAL QUESTION

Question. In your judgment, was it a mistake for the President to include public service payments within the amount placed in an escrow account?

Answer. The President did not specifically identify the public services payment as one which was required to be deposited in the escrow account. Although no decision has been made regarding this payment, it has initially been determined that the public services payment could be excluded, since it is a reimbursement for essential civil protection and sanitation services that are important to the Canal operating and housing areas.

Question. Have your employees been harassed or threatened for participating in the civil crusade marches?

Answer. Commission employees were detained at different times last year, some for participating in civil crusade demonstrations but others were picked up simply on their way to or from work. There was evidence that, at least in some instances, Commission employees were being singled out for harassment. There have been no incidents recently along these lines.

Question. Do you expect that the Republic of Panama will continue to provide services to the Canal now that Treaty payments have been put in escrow?

Answer. The Commission has not yet received specific instruction regarding the placing of Treaty payments in escrow. Withdrawal of these services would have varying impacts on the Commission, especially in the area of police protection. The Treaty specifically prohibits the Commission from performing police activities, and agency guards may not be used to protect housing areas. Withdrawal of Panamanian police protection would amount to an open invitation to thieves and vandals to enter Canal operating and housing areas. Under such circumstances, the U.S. military forces might have to assume the police protection responsibility when it becomes clear that U.S. citizen lives and properties are in immediate jeopardy.

Fire protection is also of concern. Fire protection in Canal operating and housing areas is a shared responsibility of the Commission's Fire Division and Panama's Fire Department (Bomberos). Should the Panama Bomberos be withdrawn, the Commission's own capability would be stretched should there be a major ship or structural fire in conjunction with a series of other smaller fires.

The Commission has the ability to collect the garbage in the Canal areas for a limited period of time.

Question. What is the status of the road repairs on the transisthmian highway? Weren't several personnel injured because of road conditions?

Answer. The repairs on the principal road from Miraflores Locks to the transisthmian highway through the rain forest preserve have not been started by the Panamanian Government. The Commission is pursuing all available options at this time. In this connection, the Commission reported to the Board of Directors in January its desire to initiate contractual action immediately to have the most dangerous portions of that road repaired and to do so on a reimbursable basis. Before that Board meeting, however, the Commission received from Panamanian officials an expression of that Government's willingness to effect the necessary repairs to the roads in question at the expense of the Commission. Our review revealed that there is no basis in the 1977 Treaty for the Commission to finance any part of the repairs to these roads. Furthermore, under the Panama Canal Act of 1979, any action by the Commission to effect the repairs on behalf of Panama, either directly or by contract, would have to be taken on a fully reimbursable basis.

Because of the severely deteriorated condition of the road through the rain forest, an incident involving Commission employees occurred in October of last year in which two Canal pilots were injured and a Commission vehicle was seriously damaged. The two pilots were rendered disabled for a total of 18 man-days, and the Commission temporarily lost the services of the vehicle, while approximately $3,000 worth of repairs had to be performed on damages sustained.

Question. Are there still problems with Commission personnel being stopped for curfew violations while traveling the transisthmian highway?

Answer. It is our understanding that a temporary 6:00 p.m. to 6:00 a.m. curfew was instituted for the city of Colon. Individuals travelling the transisthmian highway have been stopped occasionally over the past several months for security checks; however, there have been no recent reports of Commission personnel being stopped on the transisthmian highway.

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